

## CHAPTER 124. MUNICIPALITIES

### INTERGOVERNMENTAL CONTRACTS BETWEEN MUNICIPAL CORPORATIONS Act 35 of 1951

AN ACT to authorize intergovernmental contracts between municipal corporations; to authorize any municipal corporation to contract with any person or any municipal corporation to furnish any lawful municipal service to property outside the corporate limits of the first municipal corporation for a consideration; to prescribe certain penalties; to authorize contracts between municipal corporations and with certain nonprofit public transportation corporations to form group self-insurance pools; and to prescribe conditions for the performance of those contracts.

**History:** 1951, Act 35, Imd. Eff. May 8, 1951;—Am. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988.

*The People of the State of Michigan enact:*

#### 124.1 Definitions.

Sec. 1. As used in this act:

(a) “Municipal corporation” means a county, charter county, county road commission, township, charter township, city, village, school district, intermediate school district, community college district, metropolitan district, court district, public authority, or drainage district as defined in the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws, or any other local governmental authority or local agency with power to enter into contractual undertakings. For purposes of sections 5 to 12b, “municipal corporation” includes a public transportation corporation.

(b) “Public transportation corporation” means a nonprofit corporation organized pursuant to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws, to which 1 of the following applies:

(i) The primary purpose of the nonprofit corporation is providing public transportation services.

(ii) The nonprofit corporation receives funding from the specialized services assistance program under section 10e of Act No. 51 of the Public Acts of 1951, being section 247.660e of the Michigan Compiled Laws.

(c) “Public transportation” means that term as defined in section 10c of Act No. 51 of the Public Acts of 1951, being section 247.660c of the Michigan Compiled Laws.

**History:** 1951, Act 35, Imd. Eff. May 8, 1951;—Am. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988;—Am. 1996, Act 289, Imd. Eff. June 19, 1996.

#### 124.2 Intergovernmental contracts between municipal corporations; authorization.

Sec. 2. Any municipal corporation shall have power to join with any other municipal corporation, or with any number or combination thereof by contract, or otherwise as may be permitted by law, for the ownership, operation, or performance, jointly, or by any 1 or more on behalf of all, of any property, facility or service which each would have the power to own, operate or perform separately.

**History:** 1951, Act 35, Imd. Eff. May 8, 1951.

#### 124.3 Furnishing municipal service outside municipal corporate limits; definitions.

Sec. 3. (1) A municipal corporation may contract for adequate consideration with a person or another municipal corporation to furnish to property outside the municipal corporate limits any lawful municipal service that it is furnishing to property within the municipal corporate limits. A municipal corporation may sell and deliver heat, power, and light in amounts as determined by the governing body of the utility, except for both of the following:

(a) Electric delivery service is limited to the area of any city, village, or township that was contiguous to the municipal corporation as of June 20, 1974, and to the area of any other city, village, or township being served by the municipal utility as of June 20, 1974.

(b) Retail sales of electric generation service are limited to the area of any city, village, or township that was contiguous to the municipal corporation as of June 20, 1974, and to the area of any other city, village, or township being served by the municipal utility as of June 20, 1974, unless the municipal corporation is in compliance with section 10y(4) of 1939 PA 3, MCL 460.10y.

(2) A municipal corporation shall not render electric delivery service for heat, power, or light to customers outside its corporate limits already receiving the service from another utility unless the serving utility consents in writing.

(3) As used in this section:

(a) "Electric delivery service" has the same meaning as "delivery service" under section 10y of 1939 PA 3, MCL 460.10y.

(b) "Electric generation service" means the sale of electric power and related ancillary services.

(c) "Person" means an individual, partnership, association, governmental entity, or other legal entity.

**History:** 1951, Act 35, Imd. Eff. May 8, 1951;—Am. 1974, Act 157, Imd. Eff. June 20, 1974;—Am. 2000, Act 155, Imd. Eff. June 14, 2000.

#### **124.4 Public utility; joint ownership and operation.**

Sec. 4. Nothing contained in this act shall be construed to grant the right to jointly own or operate a public utility for supplying transportation, gas, light, telephone service, or electric power except as may be provided by the statutes or constitution of the state of Michigan, nor to contract to furnish municipal services outside corporate limits except in accordance with the constitutional limitations on such sales. Nothing contained in this act shall be construed as to grant to municipal corporations acting jointly any power or authority which they do not have acting singly.

**History:** 1951, Act 35, Imd. Eff. May 8, 1951.

#### **124.5 Group self-insurance pool; intergovernmental contract; purpose; hospital, medical, surgical, or dental benefits; assuming, ceding, and selling risk for coverages; reinsurance; documentation of coverage; powers; legislative findings and determinations; 2 or more municipal corporations as group self-insurance pool.**

Sec. 5. (1) Notwithstanding any other provision of law to the contrary, any 2 or more municipal corporations, by intergovernmental contract, may form a group self-insurance pool to provide for joint or cooperative action relative to their financial and administrative resources for the purpose of providing to the participating municipal corporations risk management and coverage for pool members and employees of pool members, for acts or omissions arising out of the scope of their employment, including any or all of the following:

(a) Casualty insurance, including general and professional liability coverage.

(b) Property insurance, including marine insurance and inland navigation and transportation insurance coverage.

(c) Automobile insurance, including motor vehicle liability insurance coverage and security for motor vehicles owned or operated, as required by section 3101 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, and protection against other liability and loss associated with the ownership of motor vehicles.

(d) Surety and fidelity insurance coverage.

(e) Umbrella and excess insurance coverages.

(2) A group self-insurance pool may not provide for hospital, medical, surgical, or dental benefits to the employees of the member municipalities in the pool except as follows:

(a) If the municipal corporation is providing hospital, medical, surgical, or dental benefits as permitted under the public employees health benefit act.

(b) If the municipal corporation has formed a multiple employer welfare arrangement under chapter 70 of the insurance code of 1956, 1956 PA 218, MCL 500.7001 to 500.7090, for hospital, medical, surgical, or dental benefits.

(c) If the hospital, medical, surgical, or dental benefits arise from the obligations and responsibilities of the pool in providing automobile insurance coverage, including motor vehicle liability insurance coverage and security for motor vehicles owned or operated, as required by section 3101 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, and protection against other liability and loss associated with the ownership of motor vehicles.

(3) A group self-insurance pool may assume, cede, and sell risk for coverages set forth in subsection (1). If a group self-insurance pool obtains reinsurance, the reinsurance contract shall be made available to the commissioner upon request. If the reinsurance contract is not available to the group self-insurance pool, the group self-insurance pool shall provide the commissioner with written documentation of coverage as is requested by the commissioner.

(4) A group self-insurance pool, for the purposes of carrying on the business of the group self-insurance pool whether or not a body corporate, shall have the power to sue and be sued; to make contracts; to hold and dispose of real and personal property; and to borrow money, contract debts, and pledge assets in the name of the group self-insurance pool.

(5) In addition to any other powers granted by this act, the power to enter into intergovernmental contracts under this section specifically includes the power to establish the pool as a separate legal or administrative

entity for purposes of effectuating group self-insurance pool agreements.

(6) The legislature hereby finds and determines that insurance protection is essential to the proper functioning of municipal corporations; that the resources of municipal corporations are burdened by the securing of insurance protection through standards carriers; that proper risk management requires spreading risk to minimize fluctuation in insurance needs; and that, therefore, all contributions of financial and administrative resources made by a municipal corporation pursuant to an intergovernmental contract authorized under this act are made for a public and governmental purpose, and that those contributions benefit each contributing municipal corporation.

(7) Two or more municipal corporations shall not form a group self-insurance pool to provide the coverages described in subsection (1) other than pursuant to sections 5 to 12b.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988;—Am. 1999, Act 83, Imd. Eff. June 28, 1999;—Am. 2007, Act 108, Imd. Eff. Oct. 1, 2007.

#### **124.6 Status of group insurance pool, programs, and coverages.**

Sec. 6. Any group self-insurance pool organized pursuant to section 5 is not an insurance company or insurer under the laws of this state. The development, administration, and provision of group self-insurance programs and coverages authorized by this act by the governing authority created to administer the pool pursuant to section 7(c) does not constitute doing an insurance business.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

#### **124.7 Intergovernmental contract; required provisions.**

Sec. 7. Any intergovernmental contract entered into under section 5 for the purpose of establishing a group self-insurance pool shall provide:

(a) A financial plan setting forth in general terms:

(i) The insurance coverages to be offered by the group self-insurance pool, applicable deductible levels, and the maximum level of claims which the pool will self-insure.

(ii) Subject to section 7a, the amount of cash reserves to be set aside for the payment of claims.

(iii) The amount of insurance to be purchased by the pool to provide coverage over and above the claims which are not to be satisfied directly from the pool's resources.

(iv) Subject to section 7a, the amount of aggregate excess insurance coverage to be maintained or the amount of the deposit of unimpaired surplus to be maintained with the state treasurer, which aggregate excess insurance or deposit shall be used in the event that the group self-insurance pool's resources are exhausted in a given fiscal period. The aggregate excess insurance or deposit or combination of aggregate excess insurance and deposit shall be, at a minimum, in the amount of \$5,000,000.00 unless the commissioner determines a lesser amount of aggregate excess insurance would be adequate.

(b) A plan of management which provides for all of the following:

(i) The means of establishing the governing authority of the pool.

(ii) The responsibility of the governing authority with regard to fixing contributions to the pool, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surpluses, and administering the pool in the event of termination or insolvency.

(iii) The basis upon which new members may be admitted to, and existing members may leave, the pool.

(iv) The identification of funds and reserves by exposure areas.

(v) Other provisions necessary or desirable for the operation of the pool.

(c) For election by pool members of a governing authority, which shall be a board of directors for the pool, a majority of whom shall be elected or appointed officers of pool members.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988.

#### **124.7a Submission and review of intergovernmental contract; filing copy of coverage document; aggregate excess insurance or deposit; filing and review of copy of aggregate excess insurance contract; cash reserves.**

Sec. 7a. (1) When 2 or more municipal corporations have formed a group self-insurance pool by an intergovernmental contract pursuant to section 5, the group self-insurance pool shall immediately submit a copy of the intergovernmental contract to the commissioner of insurance. The commissioner of insurance shall review it for compliance with this act.

(2) A copy of each coverage document form issued by the pool shall be filed with the commissioner of insurance.

(3) Each group self-insurance pool shall maintain aggregate excess insurance or a deposit with the state treasurer of unimpaired surplus which aggregate excess insurance or deposit shall be used in the event that the

pool's resources are exhausted in a given fiscal period. The aggregate excess insurance or deposit, or combination of aggregate excess insurance and deposit shall be, at a minimum, in the amount of \$5,000,000.00 unless the commissioner determines a lesser amount of aggregate excess insurance would be adequate. A copy of the aggregate excess insurance contract obtained by a group self-insurance pool pursuant to this section shall be filed with the commissioner of insurance who shall review it for compliance with this act.

(4) A group self-insurance pool shall set aside cash reserves that are adequate for the payment of claims.

**History:** Add. 1988, Act 36, Eff. July 1, 1988.

#### **124.7b Misrepresentations; penalties.**

Sec. 7b. (1) A group self-insurance pool or other person shall not issue, circulate, or use or cause or permit to be issued, circulated, or used, any written or oral statement or circular misrepresenting the terms of any policy or coverage document issued or to be issued by the pool, or misrepresenting the benefits or privileges promised under any such policy or coverage document, or estimating the future dividends payable under any such policy or coverage document.

(2) A group self-insurance pool or other person shall not make any misrepresentation or incomplete comparison of policies or coverage documents, oral, written, or otherwise, to any person for the purpose of inducing or tending to induce the person to obtain coverage from a group self-insurance pool or for the purpose of inducing or tending to induce a person to lapse, forfeit, or surrender his or her coverage with another person providing coverage in order to obtain coverage with the group self-insurance pool.

(3) In addition to the penalties provided in section 12a, a person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than \$100.00 for each violation.

**History:** Add. 1988, Act 36, Eff. July 1, 1988.

#### **124.8 Audited financial statements; certification; filing; audit by commissioner of insurance; reimbursement; uniform reporting format; uniform accounting system; review of working papers and other records; certification of reserves; examinations; noncompliance with financial requirements; plan to restore compliance; time, suspension, revocation, or limitation of right of pool to do business in state.**

Sec. 8. (1) Each group self-insurance pool created in this state shall file with the members of the pool, within 120 days after the end of the pool's fiscal year, audited financial statements certified by an independent certified public accountant. Two additional copies of the audited financial statements shall be filed with the commissioner of insurance. The commissioner of insurance shall forward a copy of the audited financial statement to the state treasurer.

(2) If a group self-insurance pool fails to provide for the audited financial statements required by subsection (1), the commissioner of insurance shall perform the audit and the group self-insurance pool shall reimburse the commissioner of insurance for the cost of the audit. The commissioner of insurance shall prescribe a uniform reporting format for the preparation of the audited financial statements and shall also devise a uniform accounting system to be used by group self-insurance pools. The working papers of the certified public accountant and other records pertaining to the preparation of the audited financial statements may be reviewed by the commissioner of insurance.

(3) Each group self-insurance pool created in this state shall file with the commissioner of insurance, within 120 days after the end of the pool's fiscal year, a certification by an independent actuary that the reserves set aside pursuant to section 7a are adequate for the payment of claims.

(4) The commissioner of insurance shall perform examinations of each group self-insurance pool created in this state to assure that the pools fulfill all of the requirements of this act and are operating in accordance with law.

(5) If a group self-insurance pool fails to maintain compliance with the financial requirements of this act, the commissioner of insurance shall notify the pool and the state treasurer that the pool has failed to maintain compliance with the financial requirements of this act. Within 30 business days after notification by the commissioner of noncompliance with the financial requirements of this act, the pool shall file a plan to restore compliance. Failure of the pool to file a plan shall create a presumption that the pool does not meet the financial requirements of this act. The commissioner, upon written request by the pool, may grant a period of time within which to restore compliance. The period of time may be granted only if the commissioner is satisfied the pool is safe, reliable, and entitled to public confidence; is satisfied the pool would suffer a material financial loss from an immediate forced conversion of its assets; and approves the plan filed by the pool for restoring compliance within the time granted. If the plan is not approved by the commissioner, or if

the plan is approved, and, at the end of 1 year the pool still does not comply with the financial requirements of this act, or if the pool does not file a plan to restore compliance, the commissioner may grant additional time to comply, or the commissioner may suspend, revoke, or limit the right of the pool to do business in this state.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988.

#### **124.9 Group self-insurance pool as self-insurer for motor vehicle security; membership in catastrophic claims association required.**

Sec. 9. (1) A group self-insurance pool shall be deemed a self-insurer for motor vehicle security under section 3101 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, as amended, being section 500.3101 of the Michigan Compiled Laws, and section 531 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.531 of the Michigan Compiled Laws. Members of the pool participating in the motor vehicle self-insurance provided by the pool shall be deemed to meet the requirements of security as required by those acts and no application for a certificate of self-insurance under section 531 of Act No. 300 of the Public Acts of 1949 shall be required.

(2) A group self-insurance pool providing motor vehicle security under this section shall become a member of the catastrophic claims association created by section 3104 of the insurance code, Act No. 218 of the Public Acts of 1956, as amended, being section 500.3104 of the Michigan Compiled Laws.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

#### **124.10 Statute or charter requiring public official to post or obtain bond; furnishing surety or fidelity insurance coverage by group self-insurance pool.**

Sec. 10. The provisions of any statute or charter requiring a public official to post bond or obtain a surety bond, the premium on which may lawfully be paid by a public agency of this state, may be satisfied with surety or fidelity insurance coverage furnished by a group self-insurance pool organized under this act, including any deductible amount or other portion self-insured by the public agency itself.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

#### **124.11 Group self-insurance pool assets; investment.**

Sec. 11. (1) The assets of any group self-insurance pool established pursuant to this act shall be invested in those securities and investments permitted for insurers in this state under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.

(2) An investment made pursuant to subsection (1) in securities wholly or partially exempt from income or other taxes levied by the United States shall be made only at taxable-equivalent yields or returns available in the marketplace on otherwise comparable securities at the time the investment decision is made.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

#### **124.12 Certain information regarding funds or liability reserve of pool exempt from disclosure; discovery.**

Sec. 12. (1) Information regarding that portion of the funds or liability reserve of a pool established for purposes of satisfying a specific claim or cause of action shall be exempt from disclosure pursuant to section 13 of Act No. 442 of the Public Acts of 1976, as amended, being section 15.243 of the Michigan Compiled Laws.

(2) Notwithstanding any provisions to the contrary contained in any public disclosure act or statute, in a claim or action against the state or any group self-insurance pool, a person shall not be entitled to discover that portion of the funds or liability reserve established for purposes of satisfying a claim or cause of action, except that the reserve is discoverable in any supplemental or ancillary proceeding to enforce a judgment.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

#### **124.12a Violation; notice of complaint; notice of hearing; summary disposal of matter; action for damages; hearing; findings and decision; cease and desist order; other orders.**

Sec. 12a. (1) When the commissioner has probable cause to believe that a group self-insurance pool or other person is violating, or has violated any of the provisions provided in sections 5 to 12, he or she shall give written notice to the pool or person, pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, setting forth the general nature of the complaint against the pool or person and the proceedings contemplated under this section. Before the issuance of a notice of hearing, the staff of the bureau of insurance responsible for the matters which would be at issue in the hearing shall give the pool or person an opportunity to confer and



discuss the possible complaint and proceedings in person with the commissioner or a representative of the commissioner, and the matter may be disposed of summarily upon agreement of the parties. This subsection shall not be construed to create or diminish any right of a person to bring an action for damages.

(2) A hearing held pursuant to subsection (1) shall be held pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969. If, after the hearing, the commissioner determines that the pool or person is violating, or has violated, any of the provisions provided in sections 5 to 12, the commissioner shall reduce his or her findings and decision to writing, and shall issue and cause to be served upon the pool or person a copy of the findings and an order requiring the pool or person to cease and desist from engaging in the prohibited activity, and the commissioner may order any of the following:

(a) Payment of a monetary fine of not more than \$500.00 for each violation but not to exceed an aggregate fine of \$5,000.00, unless the pool or person knew or reasonably should have known it was in violation of this act, in which case the fine shall not be more than \$2,500.00 for each violation and shall not exceed an aggregate fine of \$25,000.00 for all violations committed in a 6-month period.

(b) Suspension, limitation, or revocation of the pool's right to continue to do business in this state, including, but not limited to, the liquidation and receivership of the pool in the same manner as under chapter 78 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.7800 to 500.7868 of the Michigan Compiled Laws. The commissioner of insurance has the same authority to act as custodian or receiver of a group self-insurance pool as the commissioner has to act under chapter 78 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956.

(c) Restitution or refund to an aggrieved person.

**History:** Add. 1988, Act 36, Eff. July 1, 1988.

#### **124.12b Civil fine.**

Sec. 12b. If a pool or person violates a cease and desist order under this act and has been given notice and an opportunity for a hearing held pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, in addition to the actions provided in section 12a(2)(a) to (c), the commissioner may also order a civil fine of not more than \$10,000.00 for each violation.

**History:** Add. 1988, Act 36, Eff. July 1, 1988.

#### **124.13 Contract between 2 or more municipal corporations establishing authority to select single cable television franchisee and to propose model ordinances; adoption, rejection, or modification of proposed contracts and ordinances; validation of acts; inspection and review of contracts by attorney general; conducting business at public meeting; notice; availability of writings to public.**

Sec. 13. (1) Two or more municipal corporations, other than counties, in a county with a population of 1 million or more are empowered to enter into a contractual relationship for the purpose of establishing an authority to select a single cable television franchisee which shall serve those municipal corporations and to propose model ordinances establishing reasonable fees, rates and other regulations. Each participating municipal corporation shall adopt, reject or modify such proposed contracts and ordinances. The acts of an authority established prior to January 13, 1982, which meet the criteria set forth in this subsection and the acts of a municipal corporation which is a member of such authority taken in accordance with the powers set forth in this subsection are validated as if such authority had been established and such acts taken subsequent to the effective date of this section.

(2) The contracts and ordinances authorized by this section shall be subject to inspection and review by the attorney general. The attorney general shall take such actions as are necessary to assure compliance with the provisions of this section.

(3) The business which the authority may perform shall be conducted at a public meeting of the authority held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(4) All writing prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

## **INTERGOVERNMENTAL CONDITIONAL TRANSFER OF PROPERTY BY CONTRACT**

### **Act 425 of 1984**

AN ACT to permit the conditional transfer of property by contract between certain local units of government; to provide for permissive and mandatory provisions in the contract; to provide for certain conditions upon termination, expiration, or nonrenewal of the contract; and to prescribe penalties and provide remedies.

**History:** 1984, Act 425, Eff. Mar. 29, 1985;—Am. 1998, Act 192, Eff. Mar. 23, 1999.

*The People of the State of Michigan enact:*

#### **124.21 Definitions.**

Sec. 1. As used in this act:

(a) "Economic development project" means land and existing or planned improvements suitable for use by an industrial or commercial enterprise, or housing development, or the protection of the environment, including, but not limited to, groundwater or surface water. Economic development project includes necessary buildings, improvements, or structures suitable for and intended for or incidental to use as an industrial or commercial enterprise or housing development; and includes industrial park or industrial site improvements and port improvements or housing development incidental to an industrial or commercial enterprise; and includes the machinery, furnishings, and equipment necessary, suitable, intended for, or incidental to a commercial, industrial, or residential use in connection with the buildings or structures.

(b) "Local unit" means a city, township, or village.

**History:** 1984, Act 425, Eff. Mar. 29, 1985;—Am. 1990, Act 22, Imd. Eff. Mar. 6, 1990.

#### **124.22 Conditional transfer of property; period; written contract; renewal.**

Sec. 2. (1) Two or more local units may conditionally transfer property for a period of not more than 50 years for the purpose of an economic development project. A conditional transfer of property shall be controlled by a written contract agreed to by the affected local units.

(2) A contract under this act may be renewed for additional periods of not to exceed 50 years upon approval of each legislative body of the affected local units.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

#### **124.23 Formulation of contract; factors.**

Sec. 3. When formulating a contract under this act, the local units shall consider the following factors:

(a) Composition of the population; population density; land area and land uses; assessed valuation; topography, natural boundaries, and drainage basins; and the past and probable future growth, including population increase and business, commercial, and industrial development in the area to be transferred. Comparative data for the transferring local unit and the portion of the local unit remaining after transfer of the property shall be considered.

(b) The need for organized community services; the present cost and adequacy of governmental services in the area to be transferred; the probable future needs for services; the practicability of supplying such services in the area to be transferred; the probable effect of the proposed transfer and of alternative courses of action on the cost and adequacy of services in the area to be transferred and on the remaining portion of the local unit from which the area will be transferred; the probable change in taxes and tax rates in the area to be transferred in relation to the benefits expected to accrue from the transfer; and the financial ability of the local unit responsible for services in the area to provide and maintain those services.

(c) The general effect upon the local units of the proposed action; and the relationship of the proposed action to any established city, village, township, county, or regional land use plan.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

#### **124.24 Public hearing; notice; majority vote required.**

Sec. 4. (1) The legislative body of each local unit affected by a proposed transfer of property under this act shall hold at least 1 public hearing before entering into a contract under this act. Notice of the hearing shall be given in the manner provided by the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) A decision to enter into a contract under this act shall be made by a majority vote of those members elected and serving on the legislative body of each affected local unit.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.25 Compliance as condition to entering into contract; resolution; referendum; approval by majority of electors; petition; effect of not filing petition or adopting resolution.**

Sec. 5. (1) A contract shall not be entered into under this act except in compliance with this section.

(2) If the governing body of a local unit involved in a transfer of property under this act adopts a resolution calling for a referendum on the transfer, the local unit may enter into the contract only if the transfer is approved by a majority of the electors voting on the transfer.

(3) If, within 30 days after a public hearing is held under section 4, a petition signed by 20% or more of the registered electors residing within the property to be transferred is filed with the clerk of the local unit in which the property is located, a referendum on the transfer shall be held in that local unit. If a majority of the electors voting on the transfer approve the transfer, the local unit may enter into the contract.

(4) If no registered electors reside within the property to be transferred and if, within 30 days after a public hearing is held under section 4, a petition signed by persons owning 50% or more of the property to be transferred is filed with the clerk of the local unit in which the property is located, a referendum on the transfer shall be held in that local unit. If a majority of the electors in the local unit voting on the transfer approve the transfer, the local unit may enter into the contract.

(5) If a petition is not filed or resolution is not adopted as provided in this section, the local unit may enter into the contract to transfer the property.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.25a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 5a. Except as otherwise provided in this section, a petition under section 5, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A petition under section 5(4) that is signed by landowners because no registered electors reside within the property to be transferred is not subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 192, Eff. Mar. 23, 1999.

**124.26 Contract; provisions.**

Sec. 6. (1) If applicable to the transfer, a contract under this act may provide for the following:

(a) Any method by which the contract may be rescinded or terminated by any participating local unit prior to the stated date of termination.

(b) The manner of employing, engaging, compensating, transferring, or discharging personnel required for the economic development project to be carried out under the contract, subject to the provisions of applicable civil service and merit systems. An employee who is transferred by a local unit due to a contract under this act shall not by reason of the transfer be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefits that he or she enjoyed before the transfer.

(c) The fixing and collecting of charges, rates, rents, or fees, where appropriate, and the adoption of ordinances and their enforcement by or with the assistance of the participating local units.

(d) The manner in which purchases shall be made and contracts entered into.

(e) The acceptance of gifts, grants, assistance funds, or bequests.

(f) The manner of responding for any liabilities that might be incurred through performance of the contract and insuring against any such liability.

(g) Any other necessary and proper matters agreed upon by the participating local units.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.27 Contract; additional provisions.**

Sec. 7. A contract under this act shall provide for the following:

(a) The length of the contract.

(b) Specific authorization for the sharing of taxes and any other revenues designated by the local units. The manner and extent to which the taxes and other revenues are shared shall be specifically provided for in the contract.

(c) Methods by which a participating local unit may enforce the contract including, but not limited to, return of the transferred area to the local unit from which the area was transferred before the expiration date of the contract.



(d) Which local unit has jurisdiction over the transferred area upon the expiration, termination, or nonrenewal of the contract.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.28 Conditionally transferred property; jurisdiction.**

Sec. 8. Unless the contract specifically provides otherwise, property which is conditionally transferred by a contract under this act is, for the term of the contract and for all purposes, under the jurisdiction of the local unit to which the property is transferred.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.29 Other method of annexation or transfer prohibited.**

Sec. 9. While a contract under this act is in effect, another method of annexation or transfer shall not take place for any portion of an area transferred under the contract.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.30 Effect of filing contract; entering contract in book; contract as prima facie evidence of conditional transfer.**

Sec. 10. The conditional transfer of property pursuant to a contract under this act takes place when the contract is filed in the manner required by this section. After the affected local units enter into a contract under this act, the clerk of the local unit to which the property is to be conditionally transferred shall file a duplicate original of the contract with the county clerk of the county in which that local unit, or the greater part of that local unit, is located and with the secretary of state. That county clerk and the secretary of state shall enter the contract in a book kept for that purpose. The contract or a copy of the contract certified by that county clerk or by the secretary of state is prima facie evidence of the conditional transfer.

**History:** Add. 1990, Act 22, Imd. Eff. Mar. 6, 1990.

**MUNICIPAL RENTAL FACILITIES**  
**Act 179 of 1962**

AN ACT to authorize the erection of municipal buildings which contain facilities for rental.

**History:** 1962, Act 179, Eff. Mar. 28, 1963.

*The People of the State of Michigan enact:*

**124.51 Municipal buildings; rental of facilities to other governmental entities.**

Sec. 1. When any municipality erects any building, whether financed by a sinking fund or by issuance of bonds, it may include in the building facilities for rental to any other governmental entity.

**History:** 1962, Act 179, Eff. Mar. 28, 1963.

**PUBLIC EMPLOYEES HEALTH BENEFIT ACT**  
**Act 106 of 2007**

AN ACT to prescribe the conditions upon which public employers may provide certain benefits; to require the compilation and release of certain information and data; to provide certain powers and duties to certain state officials, departments, agencies, and authorities; and to provide for appropriations.

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

*The People of the State of Michigan enact:*

**124.71 Short title.**

Sec. 1. This act shall be known and may be cited as the "public employees health benefit act".

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

**124.73 Definitions.**

Sec. 3. As used in this act:

(a) "Carrier" means a health, dental, or vision insurance company authorized to do business in this state under, and a health maintenance organization or multiple employer welfare arrangement operating under, the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302; a system of health care delivery and financing operating under section 3573 of the insurance code of 1956, 1956 PA 218, MCL 500.3573; a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373; a nonprofit health care corporation operating under the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704; a voluntary employees' beneficiary association described in section 501(c)(9) of the internal revenue code, 26 USC 501(c)(9); a pharmacy benefits manager; and any other person providing a plan of health benefits, coverage, or insurance in this state.

(b) "Commissioner" means the commissioner of the office of financial and insurance services.

(c) "Medical benefit plan" means a plan, established and maintained by a carrier or 1 or more public employers, that provides for the payment of medical, optical, or dental benefits, including, but not limited to, hospital and physician services, prescription drugs, and related benefits, to public employees.

(d) "Public employee" means an employee of a public employer.

(e) "Public employer" means a city, village, township, county, or other political subdivision of this state; any intergovernmental, metropolitan, or local department, agency, or authority, or other local political subdivision; a school district, a public school academy, or an intermediate school district, as those terms are defined in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852; or a community college or junior college described in section 7 of article VIII of the state constitution of 1963. Public employer includes a public university that elects to come under the provisions of this act.

(f) "Public employer pooled plan" or "pooled plan" means a public employer pooled plan established pursuant to section 5(1)(b).

(g) "Public university" means a public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

**124.75 Medical, optical, or dental benefits provided to public employees; methods; solicitation of bids; number; frequency; participation of public employer in purchasing pool or coalition.**

Sec. 5. (1) Subject to collective bargaining requirements, a public employer may provide medical, optical, or dental benefits to public employees and their dependents by any of the following methods:

(a) By establishing and maintaining a plan on a self-insured basis. A plan under this subdivision does not constitute doing the business of insurance in this state and is not subject to the insurance laws of this state.

(b) By joining with other public employers and establishing and maintaining a public employer pooled plan to provide medical, optical, or dental benefits to not fewer than 250 public employees on a self-insured basis as provided in this act. A pooled plan shall accept any public employer that applies to become a member of the pooled plan, agrees to make the required payments, agrees to remain in the pool for a 3-year period, and satisfies the other reasonable provisions of the pooled plan. A public employer that leaves a pooled plan may not rejoin the pooled plan for 2 years after leaving the plan. A pooled plan under this subdivision does not constitute doing the business of insurance in this state and, except as provided in this act, is not subject to the insurance laws of this state. A pooled plan under this subdivision may enter into contracts and sue or be sued in its own name.

(c) By procuring coverage or benefits from 1 or more carriers, either on an individual basis or with 1 or more other public employers.

(2) A public employer or pooled plan procuring coverage or benefits from 1 or more carriers shall solicit 4 or more bids when establishing a medical benefit plan, including at least 1 bid from a voluntary employees' beneficiary association described in section 501(c)(9) of the internal revenue code, 26 USC 501(c)(9). A public employer or pooled plan procuring coverage or benefits from 1 or more carriers shall solicit 4 or more bids every 3 years when renewing or continuing a medical benefit plan, including at least 1 bid from a voluntary employees' beneficiary association described in section 501(c)(9) of the internal revenue code, 26 USC 501(c)(9). A public employer or pooled plan that provides for administration of a medical benefit plan using an authorized third party administrator, an insurer, a nonprofit health care corporation, or other entity authorized to provide services in connection with a noninsured medical benefit plan shall solicit 4 or more bids for those administrative services when establishing a medical benefit plan. A public employer or pooled plan that provides for administration of a medical benefit plan using an authorized third party administrator, an insurer, a nonprofit health care corporation, or other entity authorized to provide services in connection with a noninsured medical benefit plan shall solicit 4 or more bids for those administrative services every 3 years when renewing or continuing a medical benefit plan.

(3) This act does not prohibit a public employer from participating, for the payment of medical benefits and claims, in a purchasing pool or coalition to procure insurance, benefits, or coverage, or health care plan services or administrative services.

(4) A public university may establish a medical benefit plan to provide medical, dental, or optical benefits to its employees and their dependents by any of the methods set forth in this section.

(5) A medical benefit plan that provides medical benefits shall provide to covered individuals case management services that meet the case management accreditation standards established by the national committee on quality assurance, the joint commission on health care organizations, or the utilization review accreditation commission.

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

**124.77 Public employer pooled plan; certificate of registration; application; form; notice of additional information needed; investigation; issuance or denial of certificate of registration; notice of denial; request for hearing; books open to commissioner.**

Sec. 7. (1) A person shall not establish or maintain a public employer pooled plan in this state unless the pooled plan obtains and maintains a certificate of registration pursuant to this act.

(2) A person wishing to establish a pooled plan shall apply for a certificate of registration on a form prescribed by the commissioner. The application shall be completed and submitted to the commissioner along with all of the following:

(a) Copies of all articles, bylaws, agreements, or other documents or instruments describing the rights and obligations of employers, employees, and beneficiaries with respect to the pooled plan and the expected number of public employees to be covered for medical, optical, or dental benefits under the pooled plan.

(b) Current financial statements of the pooled plan or, for a newly established pooled plan, 3 years of financial projections.

(c) A statement showing in full detail the plan upon which the pooled plan proposes to transact business and a copy of all contracts or other instruments that it proposes to make with or sell to its members, together with a copy of its plan description.

(3) The commissioner shall examine the application and documents submitted by the applicant for completeness and shall notify the applicant not later than 30 days after receipt of the application of any additional information needed. The commissioner may conduct any investigation that the commissioner considers necessary and examine under oath any person interested in or connected with the pooled plan.

(4) The commissioner shall issue or deny a certificate of registration within 90 days of receipt of the applicant's substantially completed application. The commissioner shall not issue a certificate of registration to the pooled plan unless the commissioner is satisfied that the pooled plan is in a stable and unimpaired financial condition, that the pooled plan is qualified to maintain a medical benefit plan in compliance with this act, and that the pooled plan meets the requirements in section 9(1)(a), (e), (f), (g), and (h). The commissioner shall deny a certificate of registration to an applicant who fails to meet the requirements of this act. Notice of denial shall be in writing and shall set forth the basis for the denial. If the applicant submits a written request within 60 days after mailing of the notice of denial, the commissioner shall promptly conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in which the applicant shall be given an opportunity to show compliance with the requirements of this act.

(5) The pooled plan, upon receipt of its initial certificate of registration, which shall be a temporary

certificate, shall proceed to the completion of organization of the proposed pooled plan.

(6) A pooled plan shall open its books to the commissioner, and a final certificate of registration shall not be issued by the commissioner to a pooled plan until the pooled plan has collected cash reserves as provided in section 9.

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

#### **124.79 Public employer pooled plan; requirements; effect of insufficient reserves; collection of cash reserves.**

Sec. 9. (1) In addition to other requirements as provided in this act, a public employer pooled plan established on or after the effective date of this act shall do all of the following:

(a) Establish and maintain minimum cash reserves of not less than 25% of the aggregate contributions in the current fiscal year or in the case of new applicants, 25% of the aggregate contributions projected to be collected during its first 12 months of operation, as applicable; or not less than 35% of the claims paid in the preceding fiscal year, whichever is greater. Reserves established pursuant to this section shall be maintained in a separate, identifiable account and shall not be commingled with other funds of the pooled plan. The pooled plan shall invest the required reserve in the types of investments allowed under section 910, 912, or 914 of the insurance code of 1956, 1956 PA 218, MCL 500.910, 500.912, and 500.914. The pooled plan may satisfy up to 100% of the reserve requirement in the first year of operation, up to 75% of the reserve requirement in the second year of operation, and up to 50% of the reserve requirement in the third and subsequent years of operation, through an irrevocable and unconditional letter of credit. As used in this subdivision, "letter of credit" means a letter of credit that meets all of the following requirements:

(i) Is issued by a federally insured financial institution.

(ii) Is issued upon such terms and in a form as approved by the commissioner.

(iii) Is subject to draw by the commissioner, upon giving 5 business days' written notice to the pooled plan, or by the pooled plan for the member's benefit if the pooled plan is unable to pay claims as they come due.

(b) Within 90 days after the end of each fiscal year, file with the commissioner financial statements audited by a certified public accountant. An actuarial opinion regarding reserves for known claims and associated expenses and incurred but not reported claims and associated expenses, in accordance with subdivision (d), shall be included in the audited financial statement. The opinion shall be rendered by an actuary approved by the commissioner or who has 5 or more years of experience in this field.

(c) Within 60 days after the end of each fiscal quarter, file with the commissioner unaudited financial statements, affirmed by an appropriate officer or agent of the pooled plan.

(d) Within 60 days after the end of each fiscal quarter, file with the commissioner a report certifying that the pooled plan maintains reserves that are sufficient to meet its contractual obligations, and that it maintains coverage for excess loss as required in this act.

(e) File with the commissioner a schedule of premium contributions, rates, and renewal projections.

(f) Possess a written commitment, binder, or policy for excess loss insurance issued by an insurer authorized to do business in this state in an amount approved by the commissioner. The binder or policy shall provide not less than 30 days' notice of cancellation to the commissioner.

(g) Establish a procedure, to the satisfaction of the commissioner, for handling claims for benefits in the event of dissolution of the pooled plan.

(h) Provide for administration of the plan using personnel of the pooled plan, provided that the pooled plan has within its own organization adequate facilities and competent personnel to service the medical benefit plan, or by awarding a competitively bid contract, to an authorized third party administrator, an insurer, a nonprofit health care corporation, or other entity authorized to provide services in connection with a noninsured medical benefit plan.

(2) If the commissioner finds that a pooled plan's reserves are not sufficient to meet the requirements of subsection (1)(a), the commissioner shall order the pooled plan to immediately collect from any public employer that is or has been a member of the pooled plan appropriately proportionate contributions sufficient to restore reserves to the required level. The commissioner may take such action as he or she considers necessary, including, but not limited to, ordering the suspension or dissolution of a pooled plan, if the pooled plan is consistently failing to maintain reserves as required in this section, is using methods and practices that render further transaction of business hazardous or injurious to its members, employees, beneficiaries, or to the public, has failed, after written request by the commissioner, to remove or discharge an officer, director, trustee, or employee who has been convicted of any crime involving fraud, dishonesty, or moral turpitude, has failed or refused to furnish any report or statement required under this act, or if the commissioner, upon investigation, determines that it is conducting business fraudulently or is not meeting its contractual obligations in good faith. Any proceedings by the commissioner under this subsection shall be governed by



the requirements and procedures of sections 7074 to 7078 of the insurance code of 1956, 1956 PA 218, MCL 500.7074 and 500.7078.

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

#### **124.81 Access to books, records, and documents; payment of annual assessment.**

Sec. 11. The commissioner, or any person appointed by the commissioner, may examine the affairs of any pooled plan, and for such purposes shall have free access to all the books, records, and documents that relate to the business of the plan, and may examine under oath its trustees, officers, agents, and employees in relation to the affairs, transactions, and condition of the pooled plan. Each authorized pooled plan shall pay an assessment annually to the commissioner to be deposited into the insurance bureau fund created in section 225 of the insurance code of 1956, 1956 PA 218, MCL 500.225, in an amount equal to 1/4 of 1% of the annual self-funded contributions made to the pooled plan for that year. The assessments paid under this section shall be appropriated to the office of financial and insurance services to cover the additional costs incurred by the office of financial and insurance services in the examination and regulation of pooled plans under this act.

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

#### **124.83 Articles, bylaws, and trust agreement; filing; notice of meetings; powers of board of trustees.**

Sec. 13. (1) The articles, bylaws, and trust agreement of the pooled plan and all amendments thereto shall be filed with and presumed approved by the commissioner before becoming operative. The trust agreement shall be filed on a form prescribed by the commissioner.

(2) Each member employer of a pooled plan shall be given notice of every meeting of the members and shall be entitled to an equal vote, either in person or by proxy in writing by such member.

(3) The powers of a pooled plan, except as otherwise provided, shall be exercised by the board of trustees chosen to carry out the purposes of the trust agreement. Not less than 50% of the trustees shall be persons who are covered under the pooled plan or the collective bargaining representatives of those persons. No trustee shall be an owner, officer, or employee of a third party administrator providing services to the pooled plan.

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

#### **124.85 Public employer with 100 or more employees; claims utilization and cost information; compilation; "relevant period" defined; disclosure; availability; protected health information not included; date of compilation.**

Sec. 15. (1) Notwithstanding subsection (2), a public employer that has 100 or more employees in a medical benefit plan shall be provided with claims utilization and cost information as provided in subsection (3).

(2) A public employer who is in an arrangement with 1 or more other public employers, and together have 100 or more employees in a medical benefit plan or have signed a letter of intent to enter together 100 or more public employees into a medical benefit plan, shall be provided with claims utilization and cost information as provided in subsection (3) that is aggregated for all the public employees together of those public employers, and, except as otherwise permitted under subsection (1), shall not be separated out for any of those public employers.

(3) All medical benefit plans in this state shall compile, and shall make available electronically as provided in subsections (1) and (2), complete and accurate claims utilization and cost information for the medical benefit plan in the aggregate and for each public employer as follows:

(a) For persons covered under the medical benefit plan, census information, including date of birth, gender, zip code, and medical tier, such as single, dependent, or family.

(b) Monthly claims by provider type and service category reported by the total number and dollar amounts of claims paid and reported separately for in-network and out-of-network providers.

(c) The number of claims paid over \$50,000.00 and the total dollar amount of those claims.

(d) The dollar amounts paid for specific and aggregate stop-loss insurance.

(e) The dollar amount of administrative expenses incurred or paid, reported separately for medical, pharmacy, dental, and vision.

(f) The total dollar amount of retentions and other expenses.

(g) The dollar amount for all service fees paid.

(h) The dollar amount of any fees or commissions paid to agents, consultants, or brokers by the medical benefit plan or by any public employer or carrier participating in or providing services to the medical benefit plan, reported separately for medical, pharmacy, stop-loss, dental, and vision.

(i) Other information as may be required by the commissioner.

(4) The claims utilization and cost information required to be compiled under this section shall be compiled on an annual basis and shall cover a relevant period. For purposes of this subsection, the term "relevant period" means the 36-month period ending no more than 120 days prior to the effective date or renewal date of the medical benefit plan under consideration. However, if the medical benefit plan has been in effect for a period of less than 36 months, the relevant period shall be that shorter period.

(5) A public employer or combination of public employers shall disclose the claims utilization and cost information required to be provided under subsections (1) and (2) to any carrier or administrator it solicits to provide benefits or administrative services for its medical benefit plan, and to the employee representative of employees covered under the medical benefit plan, and upon request to any carrier or administrator who requests the opportunity to submit a proposal to provide benefits or administrative services for the medical benefit plan at the time of the request for bids. The public employer shall make the claims utilization and cost information required under this section available at cost and within a reasonable period of time.

(6) The claims utilization and cost information required under this section shall include only de-identified health information as permitted under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, and shall not include any protected health information as defined in the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

(7) All claims utilization and cost information described in this section is required to be compiled beginning 60 days after the effective date of this act. However, claims utilization and cost information already being compiled on the effective date of this act is subject to this section on the effective date of this act.

**History:** 2007, Act 106, Imd. Eff. Oct. 1, 2007.

## **INDEMNIFICATION OF POLICEMEN**

### **Act 59 of 1951**

**124.101-124.103 Repealed. 1964, Act 170, Eff. July 1, 1965.**

**FEMALE BOX ELDER TREES**  
**Act 32 of 1962**

AN ACT to authorize townships, villages and cities to adopt ordinances providing for the destruction of female box elder trees.

**History:** 1962, Act 32, Eff. Mar. 28, 1963.

*The People of the State of Michigan enact:*

**124.151 Female box elder trees; destruction as nuisance.**

Sec. 1. Female box elder trees are hereby declared to be a public nuisance and the legislative body of any township, village or city may adopt an ordinance providing for the ordering by a designated authority of the destruction of female box elder trees.

**History:** 1962, Act 32, Eff. Mar. 28, 1963.

## MUNICIPAL WATER SUPPLY SYSTEMS Act 196 of 1952

AN ACT to provide for the incorporation of municipal authorities to acquire, own and operate water supply systems; to prescribe the rights, powers and duties thereof; and to authorize contracts between such authorities and other public corporations.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

*The People of the State of Michigan enact:*

### **124.251 Water supply system; definition.**

Sec. 1. The term "water supply system", as herein used, shall be deemed to include all plants, works, instrumentalities and properties, used or useful in connection with the obtaining of a water supply, the treatment of water and/or the distribution and sale of water.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

### **124.252 Water supply system; authority, articles of incorporation, adoption, endorsement, form, publication, filing; validity.**

Sec. 2. Any 2 or more cities, villages or townships (hereinafter sometimes referred to as "municipalities") or any combination thereof, may incorporate an authority for the purpose of acquiring, owning, and/or operating a water supply system or systems, by the adoption of articles of incorporation by the legislative body of each municipality. The fact of such adoption shall be endorsed on such articles of incorporation by the mayor and clerk in case of a city, the president and clerk in case of a village, and the supervisor and clerk in case of a township, in form substantially as follows:

"The foregoing Articles of Incorporation were adopted by the ..... of the ..... of .....,  
..... County, Michigan, at a meeting duly held on the ..... day of ....., 19.....

.....  
..... of said .....  
.....  
..... of said ....."

The authority shall be comprised of the territory lying within such incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in said articles and circulating within the authority. One printed copy of such articles of incorporation certified as a true copy by the person or persons designated therefor, with the date and place of such publication, shall be filed with each, the secretary of state and the clerk of the county within which such territory or the major portion thereof is located. Such authority shall become effective at the time provided in said articles of incorporation. The validity of such incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of such certified copies with the secretary of state and the county clerk.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

### **124.253 Water supply system; articles, contents.**

Sec. 3. Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitations of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibilities of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as above provided, or who are charged with any other responsibility in connection with the incorporation of said authority, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

### **124.254 Water supply system; authority as body corporate; powers.**

Sec. 4. Such authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

### **124.255 Water supply system; acquisition of property.**

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Sec. 5. The authority may acquire property for a water supply system by purchase, construction, lease, gift, devise or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, as now or hereafter amended, or any other appropriate statute.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

#### **124.256 Water supply system; sale and purchase of water; contracts.**

Sec. 6. The authority and any of its constituent municipalities shall have authority to contract for the sale and purchase of water. The charges specified in such contract shall be subject to increase by the authority at any time if necessary in order to provide funds to meet its obligations. The authority and any city, village or township, which is not a constituent part thereof, may contract for the sale and purchase of water, which contract may provide for charges greater than those to the constituent municipalities, but the charges thereunder shall be subject to change by the authority from time to time. The authority and any other public corporation may enter into a contract for the purchase by the authority of water from such public corporation. Any contract authorized herein shall be for a period of not exceeding 50 years.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

#### **124.257 Water supply system; city, village or township may become constituent municipality; amendment of articles.**

Sec. 7. Any city, village or township, which did not join in the incorporation of an authority, may become a constituent part thereof by amendment to the articles of incorporation adopted by the legislative body of such city, village or township and by the legislative body of each city, village or township of which such authority is composed. Other amendments may be made to such articles of incorporation if adopted by the legislative body of each city, village or township of which the authority is composed. Any such amendment shall be endorsed, published, and certified printed copies filed, in the same manner as the original articles of incorporation, except that the printed copies shall be certified and filed by the recording officer of the authority.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

#### **124.258 Water supply system; taxation, taxing power.**

Sec. 8. The legislative body of each city, village or township which is a part of such authority is authorized to raise by tax or pay from its general funds, any moneys required to be paid by the articles of incorporation or by the terms of any contract between it and the authority, unless some other method is provided therefor in such articles of incorporation or contract. The authority shall have no direct taxing power.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

#### **124.259 Water supply system; bonds, issuance, payment.**

Sec. 9. For the purpose of acquiring, improving, enlarging and/or extending a water supply system, the authority may issue self-liquidating revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948, as now or hereafter amended, or any other act providing for the issuance of such bonds: Provided, That no such bonds shall be a general obligation of the authority, but shall be payable solely from the revenues of the water supply system.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

#### **124.260 Water supply system; water service, determination.**

Sec. 10. Within the scope of the definition contained in section 1 of this act, any authority shall have the right to determine what shall constitute its water supply system and the functions thereof, and may determine that its water services shall be furnished to public corporations and/or private consumers.

The authority may also furnish water direct to any city water supply district as defined in section 3 of Act No. 107 of the Public Acts of 1941, as now amended, or to any similar independently financed and operated supply system in a prescribed water supply district. If the territory within such a water supply district shall become incorporated as a city, then any contract for supplying water by the authority to such district, shall remain in full force and effect during the life of such contract and shall be carried out by the authority and such city.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

#### **124.261 Water supply system; jurisdiction; amendment of articles.**

Rendered Wednesday, May 26, 2010

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Sec. 11. No change in the jurisdiction over any territory in any city, village or township which has contracted for a supply of water from the authority, shall in any manner impair the obligations of such contract, but the same shall be carried out, insofar as such territory is concerned, by the authority and such municipality or municipalities as shall have jurisdiction to furnish water to such territory. No change in municipal jurisdiction over any territory within an authority shall in any manner affect the authority or its boundaries. If a new city shall be incorporated from a township in the authority and if such city shall exercise jurisdiction over the water supply system within its boundaries, then it shall be deemed to be a constituent municipality of the authority. If the territory within a water supply district, as defined in section 10 hereof, is incorporated as a new city having jurisdiction over the water supply system and if at the time of such incorporation there shall exist a contract with the authority for a water supply to such territory, then such city shall be a constituent municipality of the authority upon the approval of the legislative bodies of 2/3 of the cities, villages and townships constituting the authority and upon acceptance by the city of the articles of incorporation. If it shall be necessary to amend the articles of incorporation in order to give any such new city comparable rights with other constituent municipalities, the same may be accomplished upon the approval of the legislative bodies of 2/3 of the cities, villages and townships constituting the authority.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

#### **124.262 Water supply system; powers.**

Sec. 12. The powers herein granted shall be in addition to those granted by any charter or other statute.

**History:** 1952, Act 196, Imd. Eff. Apr. 29, 1952.

**MUNICIPAL SEWAGE AND WATER SUPPLY SYSTEMS**  
**Act 233 of 1955**

AN ACT to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981;—Am. 1998, Act 182, Eff. Mar. 23, 1999.

*The People of the State of Michigan enact:*

**124.281 Definitions.**

Sec. 1. As used in this act:

(a) "Authority", unless the context clearly implies a different meaning, means an authority incorporated under section 2.

(b) "Constituent municipality" or "constituent municipalities" includes all of the municipalities that signed or became signatories of articles of incorporation of any authority incorporated under this act. However, if an authority is incorporated by 2 or more counties, each municipality within the respective territorial limits of the counties, whether the counties are original incorporators or subsequently became a constituent part of the authority under section 6, is a constituent municipality.

(c) "Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for services by the United States secretary of the interior because of their status as Indians.

(d) "Municipality" means a county, township, city, or village.

(e) "Sewage disposal system" includes all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes.

(f) "Solid waste management system" includes all plants, works, instrumentalities, and properties used or useful in connection with the collection, transportation, processing, or disposal of discarded or waste materials of any sort, including access roads and facilities for resource recovery. Solid waste management system does not include the storage or disposal of toxic materials.

(g) "Water supply system" includes all plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1958, Act 34, Imd. Eff. Apr. 3, 1958;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981;—Am. 2009, Act 164, Imd. Eff. Dec. 14, 2009.

**124.282 Incorporation of authority by municipalities; purpose; adoption of articles of incorporation; endorsement; territory; publishing and filing articles of incorporation; effective date; presumption of validity.**

Sec. 2. (1) Any 2 or more municipalities may incorporate an authority for the purpose of acquiring, owning, improving, enlarging, extending, and operating a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems by the adoption of articles of incorporation by the legislative body of each of the municipalities. The fact of the adoption shall be endorsed on such articles of incorporation by the chairperson of the county board of commissioners and the county clerk in case of a county; the mayor and clerk in case of a city; the president and clerk in case of a village; and the supervisor and clerk in case of a township, in form substantially as follows:

"The foregoing articles of incorporation were adopted by  
the ..... of the ..... of .....  
County Michigan, at a meeting duly held on the ..... day  
of ....., 19....

.....  
..... of said  
.....  
..... of said  
..... "

(2) The authority shall be comprised of the territory lying within the incorporating municipalities. The

articles of incorporation shall be published at least once in a newspaper designated in the articles and having general circulation within the territory encompassed by the authority. One printed copy of the articles of incorporation certified as a true copy by the person or persons designated for the certification, with the date and place of the publication, shall be filed with the secretary of state and the clerk of the county within which the territory or the major portion of the territory is located. The authority shall become effective at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981.

#### **124.283 Joint authority; articles of incorporation, contents.**

Sec. 3. Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitation of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibilities of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as above provided, or who are charged with any other responsibility in connection with the incorporation of said authority, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

**History:** 1955, Act 233, Eff. Oct. 14, 1955.

#### **124.284 Authority as municipal authority and public body corporate; powers generally.**

Sec. 4. (1) An authority shall be a municipal authority and shall be a public body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto. The enumeration of any powers of this act shall not be construed as a limitation upon an authority's general powers.

(2) An authority may do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter the seal at pleasure.

(c) Maintain an office at such place or places within the state as it may designate.

(d) Sue and be sued in its own name, plead and be impleaded.

(e) Determine the location of any project constructed by it under the provisions of this act, and to determine, in its discretion and without reference to any other provisions of this act or any other law, the design, standards, and the materials of construction, and construct, maintain, repair, and operate the project. However, the functions, powers, and duties of the state department of public health and the department of natural resources in connection with any such public improvements shall remain unaffected by this act.

(f) Issue bonds of the authority for any of its corporate purposes under such means as may be provided in this act. If revenue bonds are issued under the provisions of section 12 or sections 12b and 12c, the revenue bonds shall be payable solely from the revenues pledged for their payment, as provided in this act.

(g) Adopt and promulgate rules and regulations for the use of any project constructed by it under the provisions of this act.

(h) Acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1958, Act 34, Imd. Eff. Apr. 3, 1958;—Am. 1985, Act 178, Imd. Eff. Dec. 6, 1985.

#### **124.284a Rules and regulations; adoption by resolution; notice; effective date; summary.**

Sec. 4a. The authority shall adopt rules and regulations by resolution of its governing body and with concurrence by resolution of constituent municipalities. After adoption of the resolution and concurrence by the constituent municipalities, a notice of adoption of the resolution and the rules and regulations, or a summary of those rules and regulations, shall be published in a newspaper of general circulation within the territory encompassed by the authority and within the territory furnished service by the authority by contract pursuant to section 10. The rules and regulations shall become effective 30 days after the date of publication of the notice and the rules and regulations or the summary of the rules and regulations. If a summary of rules and regulations is published, the summary shall be written in clear and nontechnical language and the authority shall designate in the publication the location where a full copy of the rules and regulations can be inspected or obtained.

**History:** Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985;—Am. 2008, Act 172, Imd. Eff. July 2, 2008.

**124.284b Violation of rule or regulation; civil fine.**

Sec. 4b. Except as otherwise provided in this act, the authority may prescribe a civil fine not to exceed \$1,000.00 for the violation of a rule or regulation adopted and promulgated under this act. If a civil fine is prescribed, it shall be prescribed in the rule or regulation. A fine assessed under this section shall be distributed pursuant to section 8379 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8379.

**History:** Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985;—Am. 2000, Act 24, Eff. July 1, 2000.

**124.284c Prohibitions and penalties.**

Sec. 4c. The authority may provide in its rules and regulations either or both of the following prohibitions and penalties:

(a) A person who knowingly submits or prepares for submission to the authority a false statement, representation, or certification is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both. Each violation constitutes a separate and distinct offense.

(b) A person who knowingly tampers with or alters a monitoring device or process, causing inaccurate readings or results, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both. Each violation constitutes a separate and distinct offense.

**History:** Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985.

**124.284d Enforcement of rules and regulations; issuance of citation or appearance ticket; exercise and scope of enforcement powers; costs and fees.**

Sec. 4d. (1) Subject to subsections (2) and (3), rules and regulations promulgated under this act are enforceable by the authority, its constituent municipalities, and municipalities or Indian tribes that have contracted with the authority for the furnishing of service pursuant to section 10. A person charged with enforcement of those rules and regulations may issue a citation or an appearance ticket to any person who is reasonably believed to have violated a rule or regulation promulgated under this act.

(2) The authority shall exercise its enforcement powers under this act against a violator within a municipality.

(3) A municipality or Indian tribe may exercise its enforcement powers under this act against a violator in territory under its jurisdiction.

(4) For the purposes of this section, enforcement powers include the power to bring an action in a court of competent jurisdiction to enjoin the violation of a rule or regulation promulgated under this act or to recover actual damages sustained due to the violation, or both. Costs and fees shall be awarded in those actions as provided in sections 2401 to 2461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2401 to 600.2461, or other applicable law.

**History:** Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985;—Am. 2009, Act 167, Imd. Eff. Dec. 14, 2009.

**124.284e Discontinuance and restoration of service.**

Sec. 4e. (1) The authority may authorize the discontinuance of service to a user who violates a rule or regulation promulgated under this act if the authority determines that discontinuance of service to that user is necessary to protect the integrity of the affected system.

(2) The authority shall authorize restoration of service to that user when the authority determines that the threat to the affected system no longer exists and that the cause of or events resulting in the violation will not recur.

(3) The municipality or Indian tribe that maintains and operates the affected system or part of that system, or the authority, pursuant to that municipality's or Indian tribe's authorization, shall discontinue service as authorized under subsection (1) and restore service as authorized under subsection (2).

**History:** Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985;—Am. 2009, Act 168, Imd. Eff. Dec. 14, 2009.

**124.285 Acquiring and holding, managing, controlling, selling, exchanging, or leasing property for system or combination of systems; condemnation.**

Sec. 5. The authority may acquire property for a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems by purchase, construction, lease, gift, or devise, either within or without its corporate limits, and may hold, manage, control, sell, exchange, or lease the property. For the purpose of condemnation, the authority may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, or any other statute which grants to any municipality or public body the authority to acquire private property for public use.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981.

**124.286 Joint authority; subsequent addition of other municipalities; amendment of articles.**

Sec. 6. Any municipality which did not join in the incorporation of an authority may become a constituent part thereof by amendment to the articles of incorporation adopted by the legislative body of such municipality and by the legislative body of each municipality of which such authority is composed. Other amendments may be made to the articles of incorporation if adopted by the legislative body of each municipality of which the authority is composed. Any such amendment shall be indorsed, published, and certified printed copies filed, in the same manner as the original articles of incorporation, except that the printed copies shall be certified and filed by the recording officer of the authority.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1957, Act 299, Imd. Eff. June 19, 1957.

**Compiler's note:** In the first sentence of this section, "constituent" evidently should read "constituent."

**124.287 Contracts between authority and constituent municipalities or Indian tribe; purpose; pledging full faith and credit for payment of obligation; taxes; additional methods of raising other funds; permissible contract provisions.**

Sec. 7. (1) The authority and any of its constituent municipalities or an Indian tribe may enter into a contract or contracts providing for the acquisition, construction, improvement, enlargement, extension, operation, and financing of a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems. The contract or contracts shall provide for the allocation and payment of the share of the total cost to be borne by each contracting municipality or Indian tribe in annual installments for a period of not exceeding 40 years. Each contracting municipality may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract or contracts. If a contracting municipality makes such a pledge, it may include in its annual tax levy an amount sufficient so that the estimated collections from the tax levy will be sufficient to promptly pay when due the portion of the obligation falling due before the time of the following year's tax collection. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors of a municipality, the tax may be in addition to any tax that the municipality may otherwise be authorized to levy and may be imposed without limitation as to rate or amount but shall not be in excess of the rate or amount necessary to pay the contractual obligation. If at the time of making the annual tax levy there are other funds on hand earmarked for the payment of the contractual obligation, credit for those funds may be taken upon the annual levy for the payment of the obligation. Other funds may be raised by each contracting municipality by the use of 1 or more of the following additional methods:

(a) The levy of special assessments on property benefited by a sewage disposal system, water supply system, or a combination of systems. The procedures relative to the levying and collection of the special assessments shall conform as nearly as is applicable to charter or statutory provisions for the levying and collection, except that a petition is not required from property owners.

(b) The levy and collection of charges to users and beneficiaries of the service or services furnished by the sewage disposal system, water supply system, solid waste management system, or combination of systems.

(c) The exaction of connection charges to be paid by owners of land directly or indirectly connected with the sewage disposal system, water supply system, solid waste management system, or combination of systems.

(d) The receipt of money derived from the imposition of taxes by this state, except to the extent that the use of the money for this purpose is expressly prohibited by the state constitution of 1963.

(e) The receipt of other funds that may be validly used for this purpose.

(2) The contract or contracts under subsection (1) may provide for any matters relating to the acquisition, construction, operation, and financing of the sewage disposal system, water supply system, solid waste management system, or combination of systems as are considered necessary, including authorization to the authority to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized by section 9. The contract or contracts may provide for an appropriate remedy or remedies in case of default.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1957, Act 299, Imd. Eff. June 19, 1957;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981;—Am. 2002, Act 241, Imd. Eff. Apr. 29, 2002;—Am. 2009, Act 163, Imd. Eff. Dec. 14, 2009.

**124.288 Municipality or Indian tribe desiring to contract with authority; authorization; resolution; notice; contents; execution and delivery of contract; effective date; petition requesting referendum upon contract; voting; effect of action taken prior to effective date**



**of subsection (2); special election; verification of petition signatures; number of registered electors.**

Sec. 8. (1) A municipality or Indian tribe desiring to enter into a contract with the authority under section 7 shall authorize, by resolution of its governing body, the execution of the contract. After the adoption of such a resolution by a municipality, the municipality shall publish a notice of the resolution in a newspaper of general circulation in the municipality. The notice shall state all of the following:

- (a) That the governing body has adopted a resolution authorizing execution of the contract.
- (b) The purpose of the contract.
- (c) The source of payment for the contractual obligation.
- (d) The right of referendum on the contract.
- (e) Other information that the municipality's governing body determines to be necessary to adequately inform all interested persons of the nature of the obligation.

(2) A contract under subsection (1) may be executed and delivered by the municipality upon approval by its governing body without a vote of the electors on the contract, but the contract shall not become effective until the expiration of 45 days after the date of publication of the notice. If within the 45-day period a petition signed by not less than 10% or 15,000, whichever is less, of the registered electors residing within the limits of the municipality is filed with the clerk of the municipality requesting a referendum upon the contract, the contract shall not become effective until approved by the vote of a majority of the qualified electors of the municipality voting on the question at a general or special election. If, before November 19, 1981, a municipality published a resolution authorizing the execution of a contract under this section in substantial compliance with this section as then in effect, and the referendum period formerly provided by this section expired, but the bonds were not issued, the resolution and the publication of the resolution are valid and, if a petition for a referendum on execution of the contract was not signed and filed within the time period formerly provided by this section, the contract may be executed and shall become effective without submitting the proposition for approval to the electors, or if a petition was so signed and filed, the contract may be executed and become effective if approved at an election as formerly provided in this section. A special election called for the purpose provided in this section shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on the petition shall be verified under oath as the actual signatures of the persons whose names are signed to the petition. The clerk of the municipality has the same power to reject signatures as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in any municipality shall be determined by the registration books as of the date of the filing of the petition.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981;—Am. 2009, Act 166, Imd. Eff. Dec. 14, 2009.

**124.288a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 8a. A petition under section 8, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 182, Eff. Mar. 23, 1999.

**124.289 Issuance of negotiable bonds; maturity; use of money; conditions for issuance or refunding of bonds; bonds issued, sold, and subject to MCL 141.2101 to 141.2821.**

Sec. 9. (1) To obtain funds for the acquisition, construction, improvement, enlargement, or extension of the sewage disposal system, water supply system, solid waste management system, or combination of systems authorized by this act, the authority, after the execution of the contract or contracts authorized by sections 7 and 8, upon ordinance or resolution adopted by the authority, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization contained in this act and the contract or contracts entered into pursuant to sections 7 and 8. The bonds shall mature over not more than 40 years from the date of issuance, and may provide for the use of money received from the sale of the bonds to pay operation and maintenance costs of a sewage disposal system, water supply system, solid waste management system, or combination of systems before receipt of the first revenues from the bonds.

(2) Except as otherwise provided in this act, bonds issued pursuant to this section shall be issued and sold and subject to all other applicable provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981;—Am. 1994, Act 36, Imd. Eff. Mar. 7, 1994;—Am. 2001, Act 34, Imd. Eff. Mar. 7, 2001;—Am. 2010, Act 10, Imd. Eff. Mar. 7, 2010.  
Rendered Wednesday, May 26, 2010

**124.290 Contract with municipality or Indian tribe for furnishing certain services; charges or rates; contract with public corporation for services or use of facilities; lump sum payment; financing; duration of contract; contract as general obligation.**

Sec. 10. (1) The authority and any municipality or Indian tribe may contract for the furnishing of water, sewage disposal, or waste management services or a combination of such services by the authority to the municipality or Indian tribe. The charges or rates specified in a contract under this subsection are subject to change by the authority, if necessary to meet its obligations. The charges or rates to a municipality that is not a constituent municipality or to an Indian tribe may be greater than those to constituent municipalities.

(2) The authority and any other public corporation may contract for the furnishing of water, sewage disposal, or solid waste management system services or a combination of such services by the other public corporation to the authority or may contract for the use by the authority of any of the facilities of the water supply system; sewage disposal system, including sewers; or solid waste management system or a combination of systems of the other public corporation. Any lump sum payment for such a use may be considered as a part of the cost of the authority system and may be financed the same as other capital costs are financed under this act.

(3) Each contract authorized in this section shall be for a period not exceeding 40 years. Each contract with a municipality authorized in this section is a general obligation of the municipality.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1957, Act 299, Imd. Eff. June 19, 1957;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981;—Am. 2009, Act 165, Imd. Eff. Dec. 14, 2009.

**124.291 Change in jurisdiction over territory in contracting municipality; effect on contract obligations; generator of waste not precluded from arranging for use of recyclable waste materials.**

Sec. 11. (1) A change in the jurisdiction over territory in a municipality which has contracted with the authority for the acquisition, construction, and financing of a sewage disposal system, water supply system, solid waste management system, or a combination of systems under this act, or has contracted with the authority for sewage disposal, water, or solid waste management services, or a combination of services shall not impair the obligations of the contract. In event of a change in jurisdiction over territory, the contract shall be carried out insofar as the territory is concerned by the authority and the municipality as shall have jurisdiction to furnish water, sewage disposal, or solid waste management services, or a combination of services to the territory, unless that requirement would operate to impair a contract obligation, in which case the contracting municipality shall retain jurisdiction over the territory for the purpose of carrying out its contractual obligations. A change in municipal jurisdiction over territory within an authority shall not in any manner affect the authority or its boundaries.

(2) A generator of waste shall not be precluded by an ordinance, rule, regulation, policy or practice from arranging for the use of the generator's recyclable waste materials.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1957, Act 299, Imd. Eff. June 19, 1957;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981.

**124.292 Financing project by issuance of revenue bonds; charges and rates.**

Sec. 12. Instead of the provisions in sections 7, 8, and 9 in respect to the acquisition, construction, improvement, enlargement, extension, or financing of a sewage disposal system, water supply system, solid waste management system, or a combination of systems, the authority may elect to proceed under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws, or any other act authorizing the issuance of revenue bonds, by which the financing of a project would be consummated by the issuance of revenue bonds payable from the revenues of the system or systems, if the charges and rates for service in any contract entered into under the provisions of section 10 are sufficient to satisfy the provisions of the act under which revenue bonds shall be issued. A project may be financed in part under the provisions of sections 7, 8, and 9 and in part as permitted under this section.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1957, Act 299, Imd. Eff. June 19, 1957;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981.

**124.292a Additional security for payment of municipality's contractual obligations; pledging full faith and credit and state sales tax moneys; resolution.**

Sec. 12a. A municipality contracting with the authority, either under section 7, section 10, or section 12, as

additional security for the payment of its contractual obligations, may by resolution of its governing body, irrevocably pledge its full faith and credit, and may further irrevocably pledge not to exceed 25% of the money derived from the state sales tax levied pursuant to law, and from time to time returned to it under section 10 of article 9 of the state constitution of 1963, to the payment of its contractual obligations. The resolution may also authorize and direct the county treasurer or other official charged with the disbursement of those funds, to withhold and pay over to the authority sufficient of the money to make up any deficiency in funds to meet its contractual obligations.

**History:** Add. 1957, Act 299, Imd. Eff. June 19, 1957;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981.

**124.292b Acquisition of water systems; projects over \$50,000,000, financing; costs; project revenue bonds; payment; terms and conditions of additional bonds; tax exemption; approval.**

Sec. 12b. (1) As an additional or alternative method of financing a water supply system or sewage disposal system, hereinafter generally referred to in this section and section 12c as the “project”, any authority proposing a project to cost a sum of \$50,000,000.00 or more for such purposes, is authorized to proceed under the provisions of this section and section 12c. In such event the authority is hereby authorized by resolution or resolutions of its governing body to provide for the issuance of revenue bonds for the purpose of paying all or any portion of the cost of the project, or for the purpose of refunding the bonds, including refunding bonds, or for any combination of such purposes. The term “cost of the project” includes all expenditures made in connection with the acquisition and construction thereof, financing charges, interest to accrue on the bonds during the period of construction of the project and for a period of not to exceed 1 year thereafter, cost of engineering and legal expenses, plans, specifications and surveys, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expense, and such other expense as may be necessary or incident to the construction of the project, the financing of the project and the placing of the project in operation, including the repayment of any moneys advanced by constituent municipalities of the authority for any of the above purposes. The authority may enter into such contracts for financial, fiscal agents, legal or engineering services in connection with the financing and construction of the project as it deems necessary and advisable. The authority shall not contract for the payment of stand-by bids or finders' fees.

(2) Principal of and interest and redemption premiums on the bonds issued under this section shall be payable solely from the revenues of the project, except that payments may also be made from the proceeds of refunding bonds issued under this section. The term “revenues of the project” as used in this section and section 12c means revenues derived from contracts with municipalities entered into pursuant to the provisions of section 10 of this act, and all other sources of revenue of the authority derived from the operation of the project. The bonds may be either serial bonds or term bonds, or any combination thereof. Any serial bonds shall have annual or semiannual maturities, the first maturity of which shall be payable not more than 10 years from their date. Any bonds shall be redeemable commencing with an interest payment date to be determined at such prices and upon such terms and conditions as prescribed by the authorizing resolution of the governing body of the authority, and recited upon the face of the bonds. The bonds shall mature not more than 40 years from their date, shall be coupon bonds bearing interest at not more than 6% per annum, payable semiannually, except as to the first coupon, which may be for any number of months not exceeding 10, shall be payable in such medium, shall be in such form and executed in such manner, shall have such privilege of registration as to principal or principal and interest, shall be payable at such places within or without the state, and shall otherwise have such other details as may be fixed by resolution of the governing body of the authority. The resolution of the governing body of the authority may provide the terms and conditions under which additional revenue bonds may be issued, having parity of lien with those issued and outstanding for the purpose of completing the project or providing for additions, extensions and improvements thereto. All bonds issued under the provisions of this section shall contain a statement on their face that they are payable solely and only from the revenues of the authority specifically pledged for their payment, and that the authority is authorized to pay such bonds and interest only from the revenues pledged thereto under the provisions of this section. If any official whose signature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, the signature shall nevertheless be valid and sufficient for all purposes with like effect as though the person had remained in office until delivery. All such bonds are hereby declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the negotiable instruments law of the state, subject only to the provisions for registration of the bonds which may appear therein. The bonds shall be exempt from all taxation by the state or any of its political subdivisions, and may be sold by the governing body of the authority in such manner as it, in its sole discretion, determines to be in the best interest of the authority, but no sale shall be made at a price that will result in an interest cost of more than 6%

per annum. The issuance and sale of bonds shall not be subject to the approval or authorization of any other agency of government, whether federal, state or local, but shall be entirely within the discretion and judgment of the governing body of the authority. Prior to the preparation of definitive bonds, the governing body of the authority may provide for the issuance of temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The proceedings authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

**History:** Add. 1958, Act 34, Imd. Eff. Apr. 3, 1958.

**124.292c Bonds secured by trust indenture; provisions in resolution or trust indenture; annual audit; pledging eligible marketable securities as collateral security for deposits; expenses; construction of 1958 amendments.**

Sec. 12c. (1) In the discretion of the governing body of the authority, any series of bonds issued pursuant to the authorization of section 12b may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, but no trust indenture shall convey or mortgage the project or any part of the project. Either the resolution providing for the issuance of bonds or the trust indenture may contain the provisions for the security and payment of the bonds and for the protection and enforcement of the rights and remedies of the bondholders as deemed advisable by the governing body of the authority, not in violation of the constitution of this state, including specifically covenants setting forth the following:

(a) The duties of the authority in relationship to the construction, maintenance, operation, repair, and insurance of the project.

(b) The pledge of revenues of the project or any part of the project.

(c) Limitations on the amount of money derived from the operation of the project that may be expended for operating, administrative, or other specified expenses of the authority.

(d) The safeguarding and application of the fund from which the cost of the project is to be paid and of the revenues pledged to the payment of the bonds, all of which may be deposited in as received and paid out by those banks as provided in the resolution or indenture.

(e) Provisions for the employment of consulting engineers to supervise the construction of the project, and to supervise its maintenance and operation, to which consulting engineers may be delegated all rights and duties with respect to the project deemed advisable by the governing body of the authority and the appointment of which consulting engineers shall be subject to the approval by the purchasers or holders of the bonds as provided in the resolution or indenture.

(f) Rights and remedies of the bondholders and the trustee, if any, and the restrictions thereon as may be considered advisable.

(g) Any other and additional provisions ordinarily found in trust agreements securing bond issues protecting and enforcing the rights and security of the holders of the bonds and designed to make the bonds more attractive and salable at the best available prices.

(2) The resolution or trust indenture shall contain a provision requiring an annual audit of the books and records of the authority, or any fiscal agent or trustee specified in the resolution or trust indenture by a certified public accountant or accountants to be selected by the governing body of the authority and approved by the manager or managers of the account purchasing the bonds.

(3) Any bank or trust company designated as trustee or as depository for any funds, notwithstanding any provision of law to the contrary, is authorized to pledge as collateral security for moneys deposited in such bank or trust company direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by the government of the United States, or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having a market value, exclusive of accrued interest, at least equal to the amount of the deposit; or in lieu of the collateral security as to all or any part of the deposit, there may be lodged with the trustee, or with the governing body of the authority in case of moneys deposited or remaining on deposit with the trustee, and remain in full force and effect as security for the moneys deposited, the indemnifying bonds of a surety company or companies qualified as surety for deposits of the government of the United States and qualified to transact business in this state, in a sum at least equal to the amount of moneys deposited with such bank or trust company, if such indemnity bond or bonds be approved by the governing body of the authority. All expenses incurred in carrying out the provisions appearing in any trust indenture or bond resolution and the cost of any surety bond furnished may be treated as part of the cost of maintaining and operating the project. The resolution or trust indenture may contain such other provisions as the governing body of the authority may deem reasonable and proper for the security of the bondholders, including, but without limitation, covenants prescribing all

happenings or occurrences that constitute events of default and the terms and conditions upon which bonds may become or be declared to be due before maturity and as to the rights, liabilities, powers, and duties arising upon the breach by the authority of any of its duties and obligations.

(4) Nothing contained in the 1958 amendments to this act shall be construed to authorize the issuance of other than revenue bonds.

**History:** Add. 1958, Act 34, Imd. Eff. Apr. 3, 1958;—Am. 1983, Act 30, Imd. Eff. May 6, 1983;—Am. 2002, Act 241, Imd. Eff. Apr. 29, 2002.

**124.293 Authorization to raise or pay money for administrative expenses or other purposes; direct taxing power.**

Sec. 13. The legislative body of each municipality which is a member of the authority is authorized to raise by tax or pay from its general funds, any money required to be paid by the articles of incorporation for administrative expenses or for the purpose of obtaining maps, plans, designs, specifications, and cost estimates of a proposed sewage disposal system, water supply system, or waste management system. The authority shall not have direct taxing power.

**History:** 1955, Act 233, Eff. Oct. 14, 1955;—Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981.

**124.294 Constituent municipalities; additional powers.**

Sec. 14. The powers herein granted shall be in addition to those granted by any charter or other statute.

**History:** 1955, Act 233, Eff. Oct. 14, 1955.



## **ELECTRONIC TRANSACTIONS OF PUBLIC FUNDS**

### **Act 738 of 2002**

AN ACT to authorize and regulate electronic transactions of public funds involving local units of government; and to provide for powers and duties of certain governmental agencies and officials.

**History:** 2002, Act 738, Imd. Eff. Dec. 30, 2002.

*The People of the State of Michigan enact:*

#### **124.301 Definitions.**

Sec. 1. As used in this act:

(a) "ACH arrangement" means the agreement between the originator of the ACH transaction and the receiver of the ACH transaction.

(b) "ACH policy" means the procedures and internal controls as determined under a written policy developed and adopted by the treasurer or the electronic transactions officer of a local unit under section 3.

(c) "ACH transaction" means an electronic payment, debit, or credit transfer processed through an automated clearing house.

(d) "Automated clearing house" or "ACH" means a national and governmental organization that has authority to process electronic payments, including, but not limited to, the national automated clearing house association and the federal reserve system.

(e) "Electronic transactions officer" or "ETO" means the person designated under this act by charter or by the governing body in a local unit other than a township or county.

(f) "Governing body" means any of the following:

(i) The council, commission, or other entity vested with the legislative power of a city or village.

(ii) The township board of a township.

(iii) The county board of commissioners of a county.

(iv) The board of county road commissioners of a county.

(v) The board of education of a local or intermediate school district.

(vi) The board of trustees of a community college district.

(vii) The official body to which is granted general governing powers over an authority or organization of government established under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(viii) A community mental health authority created under section 205 of the mental health code, 1974 PA 258, MCL 330.1205.

(g) "Local school district" means a school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a district governed by a special or local act.

(h) "Local unit" means any of the following:

(i) A village.

(ii) A city.

(iii) A township.

(iv) A county.

(v) A county road commission.

(vi) A local school district.

(vii) An intermediate school district.

(viii) A community college district.

(ix) An authority or organization of government established under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(x) A community mental health authority created under section 205 of the mental health code, 1974 PA 258, MCL 330.1205.

(i) "Treasurer" means the elected treasurer in a township or county.

**History:** 2002, Act 738, Imd. Eff. Dec. 30, 2002.

#### **124.302 ACH arrangement; scope.**

Sec. 2. (1) The treasurer or the ETO of a local unit may enter into an ACH arrangement as provided by this act.

(2) An ACH arrangement under this act is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to provisions of law or charter concerning the issuance of debt by a local unit.

**History:** 2002, Act 738, Imd. Eff. Dec. 30, 2002.

**124.303 ACH policy; contents.**

Sec. 3. A local unit shall not be a party to an ACH arrangement unless the governing body of the local unit has adopted a resolution to authorize electronic transactions and the treasurer or the ETO of the local unit has presented a written ACH policy to the governing body. The ACH policy shall include all of the following:

(a) That an officer or employee designated by the treasurer or ETO is responsible for the local unit's ACH agreements, including payment approval, accounting, reporting, and generally for overseeing compliance with the ACH policy.

(b) That the officer or employee responsible for disbursement of funds shall submit to the local unit documentation detailing the goods or services purchased, the cost of the goods or services, the date of the payment, and the department levels serviced by payment. This report can be contained in the electronic general ledger software system of the local unit or in a separate report to the governing body of the local unit.

(c) A system of internal accounting controls to monitor the use of ACH transactions made by the local unit.

(d) The approval of ACH invoices before payment.

(e) Any other matters the treasurer or ETO considers necessary.

**History:** 2002, Act 738, Imd. Eff. Dec. 30, 2002.

**124.304 Noncompliance; order limiting or suspending local unit's authority.**

Sec. 4. After notice and hearing as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the department of treasury may issue an order limiting or suspending the authority of a local unit to make electronic transactions under this act for failure to comply with the requirements of this act or with the requirements of the local unit's ACH policy.

**History:** 2002, Act 738, Imd. Eff. Dec. 30, 2002.

**124.305 ACH arrangement; validity; compliance.**

Sec. 5. (1) This act does not affect the validity of an ACH arrangement entered into by a local unit before the effective date of this act.

(2) All electronic transactions made on or after the effective date of this act shall comply with this act.

**History:** 2002, Act 738, Imd. Eff. Dec. 30, 2002.

## MASS TRANSPORTATION SYSTEM AUTHORITIES Act 55 of 1963

AN ACT to provide for the incorporation of public authorities to acquire, own, and operate or cause to be operated mass transportation systems; to require the state to guarantee payment of certain claims against certain transportation authorities and to give the state a lien in satisfaction of payment; to prescribe the rights, powers, and duties of those public authorities; to provide for the issuance of bonds; to provide for the levy and collection of certain taxes; and to authorize contracts between those authorities and either public or private corporations to carry out the operation of those mass transportation systems.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963;—Am. 1980, Act 397, Imd. Eff. Jan. 8, 1981;—Am. 1980, Act 410, Imd. Eff. Jan. 9, 1981.

*The People of the State of Michigan enact:*

### **124.351 Definitions.**

Sec. 1. As used in this act:

- (a) “Authority” means a public transportation authority formed under this act.
- (b) “Board” means the governing body of an authority.
- (c) “Goods” means baggage, accessories, or other personal property carried by or accompanying persons using public transportation service.
- (d) “Mass transportation systems” means all plants, equipment, work instrumentalities, and real and personal property and rights, used or useful for transportation of passengers for hire, except taxicabs and airport limousines.
- (e) “Public transportation”, “public transportation services”, and “public transportation purposes” mean the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, rapid transit vehicle, taxicab, or other conveyance which provides general or special service to the public, but not including school buses or charter or sightseeing service. Public transportation, public transportation services, and public transportation purposes as defined by this section are declared by law to be transportation purposes within the meaning of section 9 of article IX of the state constitution of 1963 .
- (f) “Service area” means that area in which a public authority incorporated under this act operates a mass transportation system or causes a mass transportation system to operate.
- (g) “Taxable property” means the property taxable under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, except for property expressly exempted under that act.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963;—Am. 1980, Act 410, Imd. Eff. Jan. 9, 1981;—Am. 1983, Act 137, Imd. Eff. July 18, 1983.

### **124.352 Incorporation of public authority; purpose; operation of system; articles of incorporation; adoption; indorsement; publication; filing; operative date; presumption of validity; cessation of operation or dissolution of authority; state guaranteed payment of claims for benefits; lien of state.**

Sec. 2. (1) The legislative body of any city having a population of not more than 300,000 may incorporate a public authority for the purpose of acquiring, owning, operating, or causing to be operated, a mass transportation system. The authority shall be authorized to operate the mass transportation system within the boundaries of the city which incorporates the public authority. However, a public authority created before the effective date of section 7a may operate a mass transportation system within the same political subdivisions in which it operates a mass transportation system immediately before the effective date of section 7a and those political subdivisions, other than those political subdivisions which only receive public transportation services from the authority pursuant to a contract, shall be considered to be members of the authority. A public authority may also operate a mass transportation system within a political subdivision which, by a resolution adopted by a majority vote of the members elected to and serving on the legislative body of the political subdivision, requests membership in the authority, but only if a majority of the members of the board of the authority, by resolution, approve the request. If a political subdivision joins the authority, the board shall amend the articles of incorporation accordingly. The clerk of the political subdivision being added shall execute the amendment, which shall be filed and published in the same manner as the original articles of incorporation.

(2) The incorporation shall be accomplished by adoption of articles of incorporation by an affirmative vote of a majority of the members elect of the legislative body of the city. The fact of adoption shall be indorsed on

the articles of incorporation by the mayor and clerk of the city in form substantially as follows:

"The foregoing articles of incorporation were adopted by an affirmative vote of a majority of the members elect of the (name of legislative body) of the city of ....., ..... county, Michigan, at a meeting duly held on the ..... day of ....., A.D. .... (year)".

.....  
Mayor

.....  
Clerk

The articles of incorporation shall be published at least once in a newspaper designated in the articles and circulated within the area proposed to be served by the mass transportation system. One printed copy of the articles of incorporation certified as a "true copy" by the person or persons designated with the date and place of the publication, shall be filed with the secretary of state and with the clerk of the county within which the area to be served by the mass transportation system is located. The authority shall become operative at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and with the county clerk.

(3) If the authority ceases to operate or is dissolved and a successor agency is not created to assume its assets and liabilities and perform its functions, and the state guarantees the payment of claims for benefits arising under Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws, against the authority, during the time the authority was approved as a self-insurer under section 611(1)(a) of Act No. 317 of the Public Acts of 1969, as amended, being section 418.611 of the Michigan Compiled Laws, the state shall be entitled to a lien which shall take precedence over all other liens on its portion of the assets of the authority in satisfaction of the payment of claims for benefits under Act No. 317 of the Public Acts of 1969, as amended.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963;—Am. 1969, Act 212, Eff. Mar. 20, 1970;—Am. 1980, Act 397, Imd. Eff. Jan. 8, 1981;—Am. 1980, Act 410, Imd. Eff. Jan. 9, 1981;—Am. 1983, Act 137, Imd. Eff. July 18, 1983.

#### **124.352a Release of political subdivision from membership in authority; conditions; levy and payment of tax; evidence of release.**

Sec. 2a. (1) A political subdivision that is a member of an authority may be released from membership in the authority if all of the following conditions are met:

(a) Adoption of a resolution by a majority of the members elected to and serving on the legislative body of the political subdivision requesting release from membership.

(b) Acceptance of the request by a majority vote of the members, other than the members representing the political subdivision requesting release, serving on the board of the authority. Notwithstanding any other provision of this act, this condition does not apply to a political subdivision seeking release from membership in an authority, if the political subdivision adopts the resolution described in subdivision (a) before the expiration of the thirtieth day after the effective date of this section.

(c) Payment or the provision for payment of all obligations of the political subdivision to the authority or its creditors is made.

(2) Any tax authorized to be levied by the authority within the boundaries of the political subdivision to be released shall continue to be levied for the period of time originally authorized. In addition, a political subdivision which has been released from an authority shall continue to receive public transportation services from the authority until the political subdivision is no longer required to pay a tax levied by the authority during the time the political subdivision was a member of the authority.

(3) Release of a political subdivision from an authority shall be evidenced by an amendment to the articles of incorporation executed by the recording officer of the authority and filed and published in the same manner as the original articles of incorporation.

**History:** Add. 1983, Act 137, Imd. Eff. July 18, 1983.

#### **124.353 Articles of incorporation; contents.**

Sec. 3. The articles of incorporation shall state the name of the authority, the purposes for which it is created, the power, duties and limitations of the authority and its officers, the method of selecting its governing body and officers, the person or persons who are charged with the responsibility of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as provided in section 2, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and the statutes of the state.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963.

#### **124.354 Authority as body corporate; powers.**

Sec. 4. The authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and all things incident thereto. The authority by contract may employ a management firm, either corporate or otherwise, to actually operate the mass transportation system, under the supervision of the authority. The enumeration of powers of this act shall not be construed as a limitation on such general powers.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963.

#### **124.354a Eligibility of public authority to apply for and receive funds under MCL 247.660e.**

Sec. 4a. A public authority incorporated under this act which operates a mass transportation system in a service area which is at least an entire county and which provides demand actuated service to that service area shall be eligible to apply for and receive funds under section 10e(1)(f) of Act No. 51 of the Public Acts of 1951, as amended, being section 247.660e of the Michigan Compiled Laws.

**History:** Add. 1980, Act 410, Imd. Eff. Jan. 9, 1981.

#### **124.355 Authority as body corporate; property; condemnation.**

Sec. 5. The authority may acquire property for a mass transportation system by purchase, construction, lease, gift or devise, either within or without the area served by such mass transportation system and may hold, manage, control, sell, exchange or lease such property. The authority may utilize any appropriate statute for the purpose of condemnation. Such condemnation proceedings shall only be applicable to property located within the corporate boundaries of the political subdivision or subdivisions by which the authority is incorporated within the corporate boundaries of the authority.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963.

#### **124.356 Fares; contracts.**

Sec. 6. The authority shall have authority to charge such fares and enter into contracts for the service provided by the mass transportation system as shall be necessary to provide funds to meet the obligations of said authority.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963.

#### **124.357 Self-liquidating revenue bonds; issuance; source of payment; property tax; limitation; election; resolution; submitting proposition to electors; conduct; canvass; costs; tax rate; levy and collection.**

Sec. 7. (1) For the purpose of acquiring, improving, enlarging, or extending a mass transportation system, the authority may issue self-liquidating revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other act providing for the issuance of self-liquidating revenue bonds. The bonds shall not be a general obligation of the authority, but shall be payable solely from the revenue of the mass transportation system. However, if the authority issues self-liquidating revenue bonds with a pledge of the full faith and credit of the municipality, those revenue bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) An authority formed under this act may levy a tax on all of the taxable property within the political subdivisions that comprise the authority for public transportation purposes as authorized by this act.

(3) The tax authorized in subsection (2) shall not exceed 5 mills of the state equalized valuation on each dollar of assessed valuation in the political subdivisions that comprise the applicable authority.

(4) The tax authorized under subsection (2) shall not be levied except upon the approval of a majority of the registered electors residing in the political subdivisions that comprise the authority affected and qualified to vote and voting on the tax at a general or special election. The election may be called by resolution of the board of the authority. The recording officer of the authority shall file a copy of the resolution of the board calling the election with the clerk of each affected county, city, or township not less than 60 days before the date of the election. The resolution calling the election shall contain a statement of the proposition to be submitted to the electors. Each county, city, and township clerk and all other county, city, and township officials shall undertake those steps to properly submit the proposition to the electors of the county, city, and township at the election specified in the resolutions of the authority. The election shall be conducted and canvassed in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, except that if the authority is located in more than 1 county, the election shall be canvassed by the state board of canvassers. The results of the election shall be certified to the board of the authority promptly after the date of the election. The authority shall not call more than 1 election within a calendar year under this section for the approval of the tax authorized by subsection (2) without the approval of the legislative bodies of a majority of

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the member political subdivisions of the authority. If the election is a special election, the authority in which the election is held shall pay the costs of the election. If the election is a general election, the authority in which the election is held shall pay the increased costs of the election due to the placement of the proposition on the ballot by the authority or an amount negotiated between the authority and the appropriate political subdivisions.

(5) The taxes authorized by this section may be levied at a rate and for a period of not more than 5 years as determined by the authority in the resolution calling the election and as shall be set forth in the proposition submitted to the electors.

(6) The tax rate authorized by this section shall be levied and collected as are all ad valorem property taxes in this state and the recording officer of the authority shall at the appropriate times certify to the proper tax assessing or collecting officers of each tax collecting county, city, and township the amount of taxes to be levied and collected each year by each county, city, and township. The board of the authority shall determine on which tax roll, if there is more than 1, of the county, city, or township that the taxes authorized by this section shall be collected. Each tax assessing and collecting officer and each county treasurer shall levy and collect the taxes certified by the authority and pay the taxes to the authority by the time provided in section 43 of the general property tax act, 1893 PA 206, MCL 211.43. The tax rate authorized by this section may be first levied by the authority as a part of the first tax roll of the appropriate counties, cities, and townships occurring after the election described in subsection (4). The tax may be levied and collected on the June or December tax roll immediately following the date of election, if the tax is certified to the proper tax assessing officials not later than May 15 or November 15, respectively, of the year in which the election is held.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963;—Am. 1980, Act 410, Imd. Eff. Jan. 9, 1981;—Am. 1983, Act 137, Imd. Eff. July 18, 1983;—Am. 2002, Act 337, Imd. Eff. May 23, 2002.

#### **124.357a Authority; tax limitations.**

Sec. 7a. An authority is intended to and shall be deemed to be an authority the tax limitations of which are provided by charter or general law within the meaning of section 6 of article IX of the state constitution of 1963.

**History:** Add. 1983, Act 137, Imd. Eff. July 18, 1983.

#### **124.358 Property owned by authority; exemption from taxes or special assessments for municipal services.**

Sec. 8. The real and personal property, owned by an authority and located within the service area, shall be exempt from all taxes levied by the state and by a political subdivision, except special assessments for municipal services if the property is located outside the corporate boundaries of the political subdivision by which the authority is incorporated. The real and personal property, owned by an authority and located outside the corporate boundaries of the political subdivision by which the authority is incorporated, may be exempted from special assessments for municipal services upon resolution by the governing body of the political subdivision.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963;—Am. 1965, Act 224, Imd. Eff. July 16, 1965;—Am. 1975, Act 200, Imd. Eff. Aug. 14, 1975.

#### **124.359 Additional powers.**

Sec. 9. The powers granted by this act are in addition to those granted by any other statute.

**History:** 1963, Act 55, Imd. Eff. Apr. 29, 1963.



## **METROPOLITAN TRANSPORTATION AUTHORITIES ACT OF 1967**

### **Act 204 of 1967**

AN ACT to create metropolitan transportation authorities; to define their powers and duties, including the creation of transportation districts; to provide for the withdrawal of counties from the authorities; to require the state to guarantee payment of certain claims against certain transportation authorities and to give the state a lien in satisfaction of payment; to permit the creation of certain councils; and to prescribe penalties and provide remedies.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1976, Act 266, Eff. Apr. 15, 1977;—Am. 1978, Act 479, Imd. Eff. Oct. 23, 1978;—Am. 1979, Act 68, Imd. Eff. July 25, 1979;—Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988;—Am. 1998, Act 183, Eff. Mar. 23, 1999.

*The People of the State of Michigan enact:*

#### **124.401 Metropolitan transportation authorities; short title.**

Sec. 1. This act shall be known and may be cited as the “metropolitan transportation authorities act of 1967”.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.402 Definitions.**

Sec. 2. As used in this act:

- (a) “Authority” means an authority created by or pursuant to this act.
- (b) “Board” means the governing and administrative body of an authority.
- (c) “Chief executive officer” means, with respect to a city, the mayor of the city and, with respect to a county, either the county executive of the county or, for a county not having a county executive, the chairperson of the county board of commissioners.
- (d) “Constituent unit” means each of the counties comprising a part of an authority or a council and each city having a population of 750,000 or more within such a county.
- (e) “Council” means a regional transit coordinating council formed pursuant to section 4a.
- (f) “Governor” means the governor of the state.
- (g) “Metropolitan area” means an area conforming in general to a consolidated metropolitan statistical area as defined by the United States office of management and budget or 2 or more counties which form a generally recognized urban complex. However, for the purposes of this act, Lapeer county shall not be considered part of a consolidated metropolitan statistical area.
- (h) “Public transportation facility” means all property, real and personal, public or private, so long as used or useful for general or special transportation service to the public, including, but not limited to, street railways, motor bus, tramlines, subways, monorails, rail rapid transit, and the movement of people thereby together with tunnel, bridge, and parking facilities used in connection with these transportation services of the authority, but shall not include taxis, limousines, highways, ports, airports, charter or sightseeing services, or transportation which is exclusively used for school purposes.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1976, Act 266, Eff. Apr. 15, 1977;—Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988.

#### **124.403 Authorities; powers.**

Sec. 3. Authorities created under this act shall plan, acquire, construct, operate, maintain, replace, improve, extend and contract for public transportation facilities. An authority is a public benefit agency and instrumentality of the state with all the powers of a public corporation, for the purpose of planning, acquiring, constructing, operating, maintaining, improving and extending public transportation facilities, and for controlling, operating, administering and exercising the franchise of such transportation facilities, if any, including charter operations as acquired.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.404 Regional transportation authorities; establishment; resolution of withdrawal; veto.**

Sec. 4. (1) Regional transportation authorities in major metropolitan areas of the state may be established as 1 or more contiguous counties elect by majority vote of the county boards of commissioners to establish or participate in an authority.

(2) A county which becomes a part of an authority created under this act may withdraw from the authority within 1 year after the county becomes a part of the authority by a resolution of withdrawal approved by a majority vote of the members elected to and serving on its county board of commissioners or may withdraw at

any time after 1 year after the county becomes a part of the authority by a resolution of withdrawal approved by a 2/3 vote of the members elected to and serving on its county board of commissioners. However, if the county has an elected county executive pursuant to Act No. 139 of the Public Acts of 1973, as amended, being sections 45.551 to 45.573 of the Michigan Compiled Laws, the county executive may veto the resolution. A veto may be overridden by a 2/3 vote of the members elected to and serving on the county board of commissioners.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1979, Act 68, Imd. Eff. July 25, 1979.

**124.404a Regional transit coordinating council; formation; purpose; collective representation of Livingston, Monroe, St. Clair, and Washtenaw counties; council as authority; receipt of transportation operating and capital assistance grants; powers and duties of council; articles of incorporation; council as “designated recipient” of federal and state transportation funds; designation of subrecipient; supplemental agreement; application for grant funds; distribution; actions and meetings of council; conducting business at public meeting; notice; establishment and report of advisory committee; financial audit as condition to distribution of state and federal funds.**

Sec. 4a. (1) The chief executive officer of each city having a population of 750,000 or more within a metropolitan area, of each county in which such a city is located, and of all other counties immediately contiguous to such a city shall form a corporation, subject to the limitations of this act, to be known as the regional transit coordinating council for the purpose of establishing and directing public transportation policy within a metropolitan area. The counties of Livingston, Monroe, St. Clair, and Washtenaw shall be collectively represented on the council by 1 member, without vote, from 1 of the counties and shall determine their representative member on the council in a manner to be determined by the counties. The county from which the representative member is to be selected shall rotate among the counties at least every 2 years and the member shall be a resident of the county from which the member is to be selected. If 1 or more of the counties of Livingston, Monroe, St. Clair, and Washtenaw withdraw from the authority, the member shall rotate between, and be selected from, the remaining counties.

(2) A council formed under this section shall be considered an authority organized pursuant to this act for the sole purpose of receiving transportation operating and capital assistance grants. A council may not exercise any rights, duties, or powers provided to an authority organized pursuant to this act except as is necessary to receive transportation operating and capital assistance grants.

(3) The council may adopt public transportation plans for its metropolitan area. The council shall coordinate service overlap, rates, routing, scheduling, and like functions between operators of public transportation. The council shall not have power to employ operating personnel, negotiate collective bargaining agreements with operating personnel, or own operating assets of a public transportation service within the metropolitan area.

(4) The articles of incorporation forming the council shall provide for the conduct of the affairs of the council, including provision for the appointment of a general secretary to the council and the allocation between the city and any authority representing the counties of any grants applied for by the council.

(5) The council shall be a “designated recipient” for purposes of the former federal urban mass transportation act of 1964, Public Law 88-365, and the regulations promulgated under that act, to apply for federal and state transportation operating and capital assistance grants, but the council may designate a city with a population of more than 750,000 and the authority representing the counties each as a subrecipient of federal and state transportation funds. To the extent required by the federal urban mass transportation act of 1964 and the regulations thereunder, the council and a city with a population over 750,000 and the authority representing the counties shall execute a supplemental agreement conferring on a city with a population over 750,000 and the authority representing the counties the right to receive and dispense grant funds and containing such other provisions as are required by federal law and regulation. The general secretary shall submit in a timely manner the council's application for such funds to the responsible federal and state agencies. The application shall designate the distribution of all capital and operating funds which shall be paid directly to a city with a population over 750,000 and the authority representing the counties. If the council is the recipient, the general secretary, as soon as possible, but not more than 10 business days after receipt of the funds by the general secretary, shall remit to a city with a population over 750,000 and the authority representing the counties their designated distribution of the funds.

(6) The council shall act by a unanimous vote of its membership entitled to vote and shall meet regularly but not less than quarterly. A council member shall not designate another representative to serve in his or her place on the council.

(7) The business which the council may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) An advisory committee comprised of riders who are senior citizens or persons with disabilities, or both, and who live within the southeastern Michigan transportation authority shall be established and shall report their concerns to the council on a regularly scheduled basis.

(9) Before any state or federal funds are distributed to any of the eligible authorities or eligible governmental agencies coordinated by the council, a financial audit of the transit operations for the fiscal year immediately previous to the most recently completed fiscal year shall be provided to the state transportation department in accordance with section 10h(2) of 1951 PA 51, MCL 247.660h. The state transportation department may waive this requirement on a temporary basis. Each audit shall be in accordance with sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. Each financial audit shall also be in accordance with generally accepted accounting standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements.

**History:** Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988;—Am. 1998, Act 75, Imd. Eff. May 4, 1998.

#### **124.404b Regional transit coordinating council; articles of incorporation; development and purpose of long-range plan.**

Sec. 4b. (1) Incorporation of a council shall be accomplished by adoption of articles of incorporation by the incorporators authorized to so act. Articles of incorporation so adopted shall be published by the person or persons designated in the articles at least once in a newspaper designated in the articles and circulated within the area proposed to be served. One printed copy of the articles of incorporation shall be filed with the secretary of state, the clerk of each county within the area of the council, and the director of the state transportation department by the person designated to do so by the articles. The council shall become operative and the articles of incorporation effective at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the publication of the articles of incorporation.

(2) The articles of incorporation shall state the name of the council; the purposes for which it is formed; the constituent units of and the metropolitan area, or portions thereof, comprising the council; the person or persons charged with the responsibility of causing the articles of incorporation to be published and filed as provided in subsection (1); the method of amending the articles of incorporation; and any other matters which the incorporators consider advisable.

(3) The council, in conjunction with the state transportation department, shall develop a long-range plan to bring the authorities coordinated by the council into conformity with the state fiscal year.

**History:** Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988.

#### **124.405 Southeastern Michigan transportation authority; establishment; resolution of withdrawal; veto; effect of withdrawal; cessation of operation or dissolution; state guaranteed payment of claims; lien of state; citizens planning and advisory councils.**

Sec. 5. (1) The southeastern Michigan transportation authority which shall include the counties of Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne is established, but a county choosing not to participate in the authority may withdraw by a resolution of withdrawal approved by a majority vote of its elected county board of commissioners within 1 year after the establishment of the authority and by a 2/3 vote of the members elected to and serving on the county board of commissioners at any time thereafter. However, if the county has an elected county executive pursuant to Act No. 139 of the Public Acts of 1973, as amended, the county executive may veto the resolution. A veto may be overridden by a 2/3 vote of the members elected to and serving on the county board of commissioners. A county that withdraws from the southeastern Michigan transportation authority and whose chief executive officer is or was required to form a corporation pursuant to section 4a, shall lose its seat on the council, shall not retain any assets of the authority, and shall not contract for public transportation services with the authority.

(2) If a county whose chief executive officer is not required to form a corporation pursuant to section 4a elects to withdraw from the authority within 12 months after the effective date of the 1988 amendatory act that added this subsection, the authority shall convey to that county and to any local authority that has a service area within that county all assets and liabilities utilized by or attributable to that county or local authority. The state transportation department shall reduce the level of state funding to the authority by the amount attributable to that county or local authority and transmit these funds directly to the county or local

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authority that has a service area within the county that elected to withdraw.

(3) If the southeastern Michigan transportation authority ceases to operate or is dissolved and a successor agency is not created to assume its assets and liabilities, and perform its functions, and if the southeastern Michigan transportation authority is authorized to secure the payment of compensation under section 611(1)(a) of Act No. 317 of the Public Acts of 1969, as amended, being section 418.611 of the Michigan Compiled Laws, then the state guarantees the payment of claims for benefits arising under Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws, against the southeastern Michigan transportation authority during the time they were approved as a self-insured employer. The state shall be entitled to a lien which shall take precedence over all other liens on its portion of the assets of the southeastern Michigan transportation authority in satisfaction of the payment of claims for benefits under Act No. 317 of the Public Acts of 1969, as amended.

(4) A community or group of communities in the southeastern Michigan transportation authority region may create citizens planning and advisory councils to relate their particular concerns to the board on a regularly scheduled basis. These councils shall have memberships representative of the various neighborhoods within those cities.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1976, Act 266, Eff. Apr. 15, 1977;—Am. 1978, Act 479, Imd. Eff. Oct. 23, 1978;—Am. 1979, Act 68, Imd. Eff. July 25, 1979;—Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988.

#### **124.405a Authority; dissolution; diminishment of powers.**

Sec. 5a. An authority created under this act shall not be dissolved nor shall its powers be diminished, except in a manner provided in this act.

**History:** Add. 1979, Act 68, Imd. Eff. July 25, 1979.

#### **124.405b Southeastern Michigan transportation authority; allocation and conveyance of assets and liabilities by board; comprehensive audit; approval of fund allocations.**

Sec. 5b. (1) At the earliest practicable date after the effective date of this section, the board of the southeastern Michigan transportation authority shall allocate and convey to a city with a population of 750,000 or more all assets and liabilities utilized by or attributable to the city in its transportation activities at that date located within the city's service area and not pertaining presently to the transportation activities of any other entity within the authority's service area, including without limitation contract rights respecting real or personal property. All other assets and liabilities not utilized by or attributable to the city shall remain the property of the southeastern Michigan transportation authority.

(2) Before any conveyance may be completed, the council shall authorize and subsequently approve a comprehensive audit of all assets and liabilities. Copies of the audit shall be provided to the department of transportation and the auditor general. The audit shall be made in accordance with Act No. 2 of the Public Acts of 1968, being sections 141.426 to 141.440a of the Michigan Compiled Laws.

(3) Except as provided in section 10(2)(f), prior to the approval of the audit, fund allocations made by the board of the authority shall be subject to the approval of the council.

**History:** Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988.

#### **124.406 Authorities; additional powers and duties.**

Sec. 6. Any authority, in addition to its other powers and duties, may:

(a) Adopt rules to accomplish the purposes of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(b) Plan, acquire, construct, operate, maintain, replace, improve, extend and contract for transportation facilities within the area included within the metropolitan transportation authority and for a distance of 10 miles beyond any portion of the limits of the authority if there is no similar authority established or operating public transportation facilities within such 10 mile extra-territorial distance.

(c) Acquire and hold, by purchase, lease, grant, gift, devise, bequest, condemnation or other legal means, real and personal property, including franchises, easements or rights of way on, under or above any property within the area included within the metropolitan transportation authority and for a distance of 10 miles beyond any portion of the limits of any authority if there is no similar authority established or operating public transportation facilities within such 10 mile extra-territorial distance that may be necessary or convenient for carrying out the intent and purposes for which it is established: Provided, however, That the 10 mile extra-territorial distance shall apply only to areas located geographically within the state of Michigan. The authority shall have the right to use space and areas over, under and upon the public streets and highways to carry out its duties subject to reasonable use. In acquiring any private bus company pursuant to section 24,

the authority may not do so piecemeal but shall acquire the entire system including that which may be outside the area then included within the authority: Provided, however, That this act shall apply to bus companies operating solely within the jurisdiction of the authority or whose major portion of bus passengers are within the jurisdiction of the authority: Provided, further, That the authority can, through mutual agreement of the parties involved, acquire a portion of any bus company if that portion falls within the jurisdiction of the authority whether or not that bus company is subject to the provisions of this act.

(d) Institute condemnation proceedings, but not highway procedure, under the laws of this state which are applicable to the acquisition of private property for public use subject to the provisions of section 24.

(e) Apply for and accept grants, loans or contributions from the federal government or any of its agencies, the state or other public or private agencies to be used for any of the purposes herein and to do any and all things within its express or implied powers necessary or desirable to secure such financial or other aid or cooperation in the carrying out of any of the purposes of this act.

(f) Sell, lease or use any property acquired for the purposes of this act but not needed thereof, and lease advertising space and grant concessions for the sale of newspapers and other articles and for services on or in any portion of the property under the jurisdiction of the authority.

(g) Grant to utilities, public or privately owned, the right to use the property or any part of the property of the transportation facilities. In like manner it may grant to any other transportation facility the right to use for station purposes, or otherwise, any part of the property of the transportation facilities.

(h) Contract, if necessary or advisable, with any other unit of government or private enterprise for service contracts, joint use contracts or contracts for the construction or operation of any part of the transportation facilities within the limits of the unit of government.

(i) Exercise all other powers incidental, necessary or convenient for the exercise of the powers herein granted.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.407 Rates and charges; services; public service commission; jurisdiction; appeals; injunctions.**

Sec. 7. Any authority may fix rates, fares, tolls, rents and other charges for the use of the transportation facilities owned and operated for all intraregional travel within the jurisdiction of the authority as well as the services to be rendered by the authority. The authority shall determine by itself exclusively, after appropriate public hearing, the transportation facilities to be operated by it, the services to be available to the public and the rates to be charged therefor. Where the authority has acquired, constructed or initiated a system which includes routes or service which originates in, terminates in or passes through areas not included in the authority then those routes, service and maintenance of service as well as the rates therefor shall be under the jurisdiction of the public service commission in the same manner and to the same degree as any other common motor carrier of passengers for hire operating outside the authority area. If the counties in which these areas are situate become part of the authority the jurisdiction of the public service commission as to the routes, service maintenance of service and rates of the authority in that county shall terminate. Any person aggrieved by any rate or service or change of service fixed by the authority may bring an appeal against the authority in the proper court in any county in the metropolitan area in which the charge, service or change of service is applicable, for the purpose of protesting against any such charge, service or change of service. The grounds for such appeals shall be restricted to an abuse of discretion or an error of law; otherwise, all such actions by the authority are final. Whenever 2 or more appeals are brought against the same action of the authority, exclusive jurisdiction for the determination thereof shall be vested in the first court to receive an appeal, and all other courts receiving subsequent appeals against the same action shall transfer the appeals to the first court. Upon the finding of an error of law or a manifest and flagrant abuse of discretion, the court shall issue an order setting forth the abuse or error and returning the matter to the authority for such further action as is not inconsistent with the findings of the court. No cause of action shall exist on behalf of any person directly or indirectly, under which any court shall have jurisdiction or power to issue or grant any temporary or preliminary injunction or restraining order to prevent or suspend the operation of any order or rule of the authority which fixes rates, fares, tolls, rents or other charges for the use of or which changes any services of the transportation facilities under the jurisdiction of the authority.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.408 Repealed. 1988, Act 481, Imd. Eff. Dec. 28, 1988.**

**Compiler's note:** The repealed section pertained to powers and duties of southeastern Michigan transportation authority.

#### **124.409 Authority exempt from motor carrier act, motor bus transportation act, and public**



**service act.**

Sec. 9. In the exercise of its powers within its geographical boundaries, an authority is exempt from the motor carrier act, Act No. 254 of the Public Acts of 1933, being sections 475.1 to 479.20 of the Michigan Compiled Laws; the motor bus transportation act, Act No. 432 of the Public Acts of 1982, being sections 474.101 to 474.141 of the Michigan Compiled Laws; and the public service act.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988.

**124.410 Provisions applicable only to authorities other than southeastern Michigan transportation authority; provisions applicable only to southeastern Michigan transportation authority.**

Sec. 10. (1) The following subdivisions shall apply only to authorities other than the southeastern Michigan transportation authority:

(a) Authorities shall be governed by a board consisting of 9 members. The term of office of the members of the board shall be 3 years, except that of the members first appointed 3 shall be for 1 year, 3 for 2 years, and 3 for 3 years. All terms shall expire on June 30 except that members shall serve until their successors are appointed. The members of the board may be removed by the appointing authority for cause. Any vacancy in office shall be filled by the governor for the remainder of the unexpired term. The members shall annually elect a chairman and vice-chairman from among their members. The board shall hold regular monthly meetings and special meetings as necessary at times as it determines, and shall designate the time and place of those meetings. It shall adopt its own rules of procedure and shall keep a record of its proceedings. Five members constitute a quorum for the transaction of business and the affirmative vote of a majority of all the members shall be necessary for the adoption of a motion or resolution. The members of a board shall be residents of the counties included in the authority.

(b) A county choosing not to participate in an authority may withdraw by a majority vote of its elected county board of commissioners within 1 year after the establishment of the authority and by a 2/3 vote of the board of commissioners at any time thereafter. If a county withdraws from an authority pursuant to this section, the term of a member of the board from the county which withdraws shall expire at the time of the county's withdrawal.

(c) Each member of the board shall receive reimbursement for expenses incurred in the discharge of his duties as a board member. Each member of the board may receive compensation of not more than \$35.00 for each meeting of the board the member attends, not exceeding 4 meetings per month. The chairman of the board may receive compensation of not more than \$45.00 for each meeting of the board the chairman attends, not exceeding 4 meetings per month. A copy of the proceedings of each board meeting shall be available for public inspection during normal working hours at the offices of the board.

(d) Six members of the board shall be appointed by the governor with the advice and consent of the senate, from lists of 3 or more names each submitted by the county boards of commissioners of member counties and the mayor of cities within the authority with a population of more than 500,000. Three members shall be appointed directly by the governor with the advice and consent of the senate.

(e) An authority shall hold a public hearing on its annual operating and capital budget, financial audits, and construction plans.

(f) An authority shall also maintain close working and coordinating relationships with the state, local, and federal agencies or other agencies to the end that duplication of effort is minimized and that the planning and implementation functions work together in the public interest to carry out the purposes of this act.

(2) The following subdivisions shall apply only to the southeastern Michigan transportation authority:

(a) The board of the southeastern Michigan transportation authority shall be composed of the chief executive officers of each county in which a city having a population of 750,000 or more is located within the area served by the southeastern Michigan transportation authority and of all other counties immediately contiguous to such city, and the representative of each such chief executive officer to be designated in the sole discretion of, and serve at the sole pleasure of, that chief executive officer. A chief executive officer may designate an alternate to serve in his or her place on the board. The counties of Livingston, Monroe, St. Clair, and Washtenaw shall be collectively represented on the board by 1 person from these counties. The counties shall determine their representative member on the board in a manner to be determined by the counties. The county from which the representative member is to be selected shall rotate among the counties at least every 2 years and the member shall be a resident of the county from which the member is to be selected. If 1 or more of the counties of Livingston, Monroe, St. Clair, and Washtenaw withdraw from the authority, the member shall rotate among, and be selected from, the remaining counties.

(b) The board by a majority vote shall adopt bylaws and rules of procedure governing its meetings. A



majority vote for the adoption of bylaws and rules of procedure and for the transaction of business shall not be effective unless it includes at least 1 vote from each county in which a city having a population of 750,000 or more is located, and at least 1 vote from each county immediately contiguous to such city.

(c) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(d) The board shall do the following:

(i) Obtain an annual audit in accordance with sections 6 to 13 of the uniform budgeting and accounting act, Act No. 2 of the Public Acts of 1968, being sections 141.426 to 141.440a of the Michigan Compiled Laws. The audit shall also be in accordance with generally accepted government auditing standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements. A copy of the annual audit shall be filed with the state treasurer in accordance with section 4(2) of the uniform budgeting and accounting act, Act No. 2 of the Public Acts of 1968, and a copy shall be filed with the state transportation department in accordance with section 10h(2) of Act No. 51 of the Public Acts of 1951, being section 247.660h of the Michigan Compiled Laws.

(ii) Prepare budgets and appropriations acts in accordance with sections 14, 15(1)(a) to (g), 15(1)(i), 15(2), 16, 17, 18, and 19 of the uniform budgeting and accounting act, Act No. 2 of the Public Acts of 1968, being sections 141.434 to 141.439 of the Michigan Compiled Laws.

(iii) If ending a fiscal year in a deficit condition, file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of Act No. 140 of the Public Acts of 1971, being section 141.921 of the Michigan Compiled Laws. A copy of the financial plan shall also be filed with the state transportation department.

(e) The board may change the name of the authority by a majority vote of the members as described in subdivision (b). The board shall notify the state transportation commission within 10 days after a name change is adopted.

(f) The board shall guarantee each of the counties of Livingston, Monroe, St. Clair, and Washtenaw, as long as they remain members of the authority, the average percentage of state transportation funds allocated to the authority that each county received in the last 5 fiscal years before the effective date of this subdivision. The state transportation department shall be responsible for determining these percentages.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1968, Act 233, Imd. Eff. June 26, 1968;—Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970;—Am. 1976, Act 266, Eff. Apr. 15, 1977;—Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988.

#### **124.411 Governing boards; general manager; policies, annual audits.**

Sec. 11. The board shall:

(a) Employ a general manager of the authority.

(b) Establish broad policies covering all major operations of the authority.

(c) Employ an independent certified public accounting firm to provide annual financial audits.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.412 Governing boards; general manager; appointment, powers, duties, term.**

Sec. 12. Before engaging in transportation operations, or at such time as the board deems appropriate and necessary, the board shall appoint a general manager who shall be the chief executive and operating officer of the authority. The general manager shall have management of the properties and business of the authority and the employees thereof. He shall direct the enforcement of all resolutions, rules and regulations of the board, and shall enter into contracts as necessary under the general control of the board. The general manager shall serve at the pleasure of the board.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.413 Governing boards; officers, employees, agents; appointment, classification, merit rating; collective bargaining; assumed wage, hour, and other benefit obligations; returning servicemen.**

Sec. 13. (1) The general manager shall have the authority to appoint such officers, employees and agents as necessary to carry out the purposes of the authority under the general policy direction of the board. At such time as the authority operates transportation facilities, the general manager shall classify all the offices, positions and grades of regular employment required under a merit rating system; except that a maximum of 5% of the employees and officers shall be exempt from the provisions of the merit rating system. The authority shall have the right to bargain collectively and enter into agreements with labor organizations, and

shall be bound by existing labor union agreements with public or privately owned entities that are acquired, purchased or condemned by the authority. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The board shall assume the obligation of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees.

(2) No employee of any acquired transportation system who is transferred to a position with the authority shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits that he enjoyed as an employee of such acquired transportation system.

(3) Employees who left the employ of such transportation system to enter the military service of the United States shall have the same rights as to the authority, under the provisions of the service men's employment tenure act approved July 17, 1941, as they would have had thereunder as to such transportation system.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.414 Taxation; methods of financing.**

Sec. 14. The authority may not levy taxes nor may it pledge the credit or taxing power of the state or any political subdivision except for the pledging of receipts of taxes, special assessments or charges collected by the state or a political subdivision and returnable or payable by law or by contract to the authority and except for the pledge by a political subdivision of the state of its full faith and credit in support of its contractual obligations to the authority as authorized by law. Transportation facilities shall be financed, in addition to other methods of financing provided by law, as follows:

(a) By fares, rates, tolls and rents.

(b) By other income or revenues from whatever source available, including appropriations or contributions of whatever nature or other revenues of the participating counties and political subdivisions within the geographical boundaries of the authority.

(c) By grants, loans or contributions from federal, state or other governmental units and grants, contributions, gifts, devises or bequests from public or private sources.

(d) By proceeds of taxes, special assessments or charges imposed pursuant to law and collected by the state or a political subdivision and returned or paid to the authority pursuant to law or contract.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970.

#### **124.415 Annual operating and capital budget; review, approval; five-year capital program budgets, annual revision; financial audits; construction programs.**

Sec. 15. (1) The general manager shall prepare and the board shall approve a separate operating and capital budget for each fiscal year. These budgets shall be approved at least 30 days prior to the beginning of each new fiscal year. In addition, capital program budgets shall be prepared to cover periods of 5 years. The first of these annual capital program budgets shall be submitted no later than 3 years after the initial formation of the authority. These shall be revised and updated annually prior to submission to the board.

(2) The authority shall submit its annual operating and capital budget, financial audits and construction plans to a regional governmental and coordinating agency where one exists in the region for review and comment a reasonable time prior to final approval by the authority board of directors.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.416 Bonds; contractual obligations; issuance and sale; advancing money or delivering property to authority; resolution authorizing execution of contract; petition; referendum; approval of certain bonds or notes; subway; notes not subject to revised municipal finance act.**

Sec. 16. (1) The authority may borrow money and issue bonds to finance and to carry out its powers and duties. The bonds shall be payable from and may be issued in anticipation of payment of the proceeds of any of the methods of financing described in section 14 or elsewhere in this act or as may be provided by law. A political subdivision within the geographical boundaries of the authority may contract to make payments, appropriations, or contributions to the authority of the proceeds of taxes, special assessments, or charges imposed and collected by the political subdivision or out of any other funds legally available and may pledge its full faith and credit in support of its contractual obligation to the authority. The contractual obligation shall not constitute an indebtedness of a political subdivision within a statutory or charter debt limitation. If the authority has issued bonds in anticipation of payments, appropriations, or contributions to be made to the authority pursuant to contract by a political subdivision having the power to levy and collect ad valorem

taxes, the political subdivision may obligate itself by the contract, and thereupon may levy a tax on all taxable property in the political subdivision, which tax as to rate or amount will be as provided in section 6 of article IX of the state constitution of 1963 for contract obligations in anticipation of which bonds are issued, to provide sufficient money to fulfill its contractual obligation to the authority.

(2) The bonds of the authority shall be issued and sold in compliance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that the bonds may be issued for any period of years, not exceeding 40 years.

(3) A public corporation may advance money or deliver property to the authority to finance or to carry out its powers and duties. The authority may agree to repay the advances or pay for the property within a period not exceeding 10 years, from the proceeds of its bonds or from other funds legally available for that purpose, with or without interest as may be agreed at the time of advance or of repayment. The obligation of the authority to make the repayment or payment may be evidenced by a contract or note or notes, which contract or note may pledge the full faith and credit of the authority.

(4) A political subdivision desiring to enter into a contract under subsection (1) shall authorize, by resolution of its governing body, the execution of the contract, which resolution shall be published in a newspaper of general circulation within the political subdivision, and the contract may be executed without a vote of the electors on the contract upon the expiration of 90 days after the date of the publication unless, within the 90-day period, a petition signed by not less than 5% of the registered electors residing within the limits of the political subdivision is filed with the clerk of the political subdivision requesting a referendum upon the execution of the contract, and in that event the contract shall not be executed until approved by the vote of a majority of the electors of the political subdivision qualified to vote and voting on the contract at a general or special election to be held not more than 90 days after the filing of the petition.

(5) If the bonds or notes sold by the authority involve the pledge or use of state collected or administered funds, the authority shall seek the approval of the state transportation commission.

(6) Notwithstanding any other provision of this section, an authority shall not issue bonds, nor use the revenues of the sale of bonds, for the construction, reconstruction, maintenance, or operation of a subway unless approved by concurrent resolution by the legislature.

(7) Notes issued and contracts entered into under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970;—Am. 1976, Act 266, Eff. Apr. 15, 1977;—Am. 1978, Act 479, Imd. Eff. Oct. 23, 1978;—Am. 1983, Act 31, Imd. Eff. May 6, 1983;—Am. 2002, Act 328, Imd. Eff. May 23, 2002.

#### **124.416a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 16a. A petition under section 16, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 183, Eff. Mar. 23, 1999.

**Compiler's note:** Former MCL 124.416a, which pertained to transportation districts, was repealed by Act 481 of 1988, Imd. Eff. Dec. 28, 1998.

#### **124.417 Competitive bids; procedure; written price quotations; procurement procedures; waiver; savings to be used for construction of bus shelter.**

Sec. 17. (1) Except in the purchase of unique articles or articles which, for any other reason, cannot be obtained in the open market and except as otherwise provided in this section and in section 24, competitive bids shall be secured before any purchase or sale, by contract or otherwise is made or before any contract is awarded for construction, alterations, supplies, equipment, repairs, or maintenance or for rendering any services to the authority other than professional services; and the purchase shall be made from or the contract shall be awarded to the lowest responsive and responsible bidder; or a sale to the highest responsive and responsible bidder. The authority may reject any and all such bids or proposals. A purchase of any unique article or other articles which cannot be obtained in the open market shall not be made without express approval of the board where the amount involved is in excess of \$25,000.00.

(2) All purchases and sales in excess of \$25,000.00 shall be awarded after advertising in a local newspaper of general circulation in the metropolitan area at least 2 weeks before the bid opening. Bids shall be publicly opened and read aloud at a date, time, and place designated in the invitation to bid. Invitations to bid shall be sent at least 1 week before the bid opening to at least 3 potential bidders who are qualified technically and

financially to submit bids, or a memorandum shall be kept on file showing that less than 3 potential bidders who are so qualified exist in the market area within which it is practicable to obtain bids.

(3) Except as otherwise provided in this section, written price quotations from at least 3 qualified and responsible vendors shall be obtained for all purchases and sales of \$25,000.00 or less but over \$5,000.00, or a memorandum shall be kept on file showing that less than 3 vendors so qualified exist in the market area within which it is practicable to obtain quotations.

(4) Purchases or sales under \$5,000.00 may be negotiated with or without competitive bidding under procurement procedures as promulgated and established by the general manager.

(5) Competitive bidding requirements may be waived if it is determined by the general manager, or in such other manner as the board may provide, by regulation, that an emergency directly and immediately affecting service, or public health, safety, or welfare requires immediate delivery of supplies, materials, equipment, or services.

(6) Savings achieved by the 1993 amendatory act that added this subsection shall be used as 1 funding source for funds to construct bus shelters at SMART bus stops. In the case of a state trunkline highway, a bus shelter constructed by SMART may include advertising on the shelter. This project shall be competitively bid and shall be completed within 12 months.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970;—Am. 1993, Act 350, Imd. Eff. Jan. 11, 1994.

#### **124.418 Concessions; award, procedure.**

Sec. 18. All concessions granted by the authority for the sale of products or the rendition of services for a consideration on authority property shall be awarded only pursuant to written specifications after competitive bidding and to the highest responsible bidder in a manner similar to that required by section 17 relating to contracts for procurement involving an expenditure of more than \$5,000.00. This requirement for competitive bidding shall not apply to any concession involving the estimated receipt by the authority of less than \$1,000.00 over the period for which the concession is granted.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.419 Transportation authority claims; notice, allowance, jurisdiction over actions against authority.**

Sec. 19. All claims that may arise in connection with the transportation authority shall be presented as ordinary claims against a common carrier of passengers for hire: Provided, That written notice of any claim based upon injury to persons or property shall be served upon the authority no later than 60 days from the occurrence through which such injury is sustained and the disposition thereof shall rest in the discretion of the authority and all claims that may be allowed and final judgment obtained shall be liquidated from funds of the authority: Provided, further, That only the courts situated in the counties in which the authority principally carries on its function are the proper counties in which to commence and try action against the authority.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.420 Assistance from political subdivisions and public and private agencies.**

Sec. 20. All counties, other political subdivisions and agencies, public or private, may assist, cooperate with, and contribute services, money or property in aid of such authorities and their purposes.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.421 Liberal construction of act.**

Sec. 21. This act, being necessary for the public peace, health, safety and welfare, shall be liberally construed to effect the purposes hereof which are declared to be public purposes.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.422 Tax exemption of property.**

Sec. 22. Authorities and their property, real, personal and mixed, are exempt from assessment, levy and collection of all general and special taxes of the state or any governmental unit.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

#### **124.423 Annual public report and financial statement.**

Sec. 23. The authority shall prepare and publish a detailed public report and financial statement of its operations at the end of each fiscal year.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967.

**124.424 Acquisition of transportation operating facilities; negotiation; condemnation or arbitration, election; competition with common carriers.**

Sec. 24. The authority shall endeavor to acquire facilities, assets and rights of existing and operating private or public transportation systems, however no liability other than for equipment and facilities shall be assumed or contracted for, by good faith negotiation and contract and in so doing shall not be required to comply with any statutory or charter limitations or prerequisites to such acquisition. If such contract provides only for operation of the transportation system by the authority or for acquisition without consideration, the transaction shall not be deemed to be a sale of a public utility within any constitutional, statutory or charter limitation or any revenue bond ordinance. In the event that negotiation does not result in a settlement, the authorities shall request in writing to the party owning such facilities and such party shall elect in writing within 15 days of such request between condemnation under the provisions of this act or binding final arbitration under the rules and procedures of the American arbitration association. Such election shall be limited to condemnation or arbitration and shall be final. Until such time as the authority shall have acquired the routes of a common carrier of persons certified by the Michigan public service commission and which common carrier is subject to the provisions of this act and not exempt under the provisions of section 6(c) the authority shall not operate competitive service over the same routes with such common carrier, except for existing competing service which is operated by a company acquired by the authority.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970.

**124.425 Availability of records and other writings to public; conducting business at public meeting; notice of meeting.**

Sec. 25. Records and any other writings prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be available to the public during normal business hours in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. The business which a board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**History:** 1967, Act 204, Imd. Eff. July 10, 1967;—Am. 1978, Act 70, Imd. Eff. Mar. 21, 1978.

**124.426 Emergency financial manager.**

Sec. 26. Notwithstanding any provision of this act, if an emergency financial manager has been appointed under the local government fiscal responsibility act, Act No. 101 of the Public Acts of 1988, being sections 141.1101 to 141.1118 of the Michigan Compiled Laws, with respect to an authority established by this act, then that emergency financial manager may exercise the authority and responsibilities provided in this act to the extent authorized by Act No. 101 of the Public Acts of 1988.

**History:** Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988.



**PUBLIC TRANSPORTATION AUTHORITY ACT**  
**Act 196 of 1986**

AN ACT to authorize the formation of public transportation authorities with certain general powers and duties; to provide for the withdrawal of certain local entities from public transportation authorities; to authorize certain local entities to levy property taxes for public transportation service and public transportation purposes; to protect the rights of employees of existing public transportation systems; to provide for the issuance of bonds and notes; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond or note payment; to provide for the powers and duties of certain state agencies; to validate taxes authorized before July 10, 1986, elections held before July 10, 1986, and bonds and notes issued before July 10, 1986; to provide for transfer of certain tax revenue and certain powers, rights, duties, and obligations; to authorize condemnation proceedings; to grant certain powers to certain local entities; to validate and ratify the organization, existence, and membership of public transportation authorities created before July 10, 1986 and the actions taken by those public transportation authorities and by the members of those public transportation authorities; and to prescribe penalties and provide remedies.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986;—Am. 1998, Act 168, Eff. Mar. 23, 1999.

*The People of the State of Michigan enact:*

**124.451 Short title.**

Sec. 1. This act shall be known and may be cited as the “public transportation authority act”.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

**124.452 Definitions.**

Sec. 2. As used in this act:

- (a) “Board” means the governing body of a public authority.
- (b) “Goods” means baggage, accessories, or other personal property carried by or accompanying persons using public transportation service.
- (c) “Political subdivision” means a county, city, village, or township. Political subdivision, in relation to those provisions involving an authority created under an interlocal agreement pursuant to the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.501 to 124.512 of the Michigan Compiled Laws, forming a public authority, includes any other entities which entered into the interlocal agreement.
- (d) “Public authority” means an authority created under this act.
- (e) “Public transportation”, “public transportation service”, “public transportation purpose” means the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, rapid transit vehicle, taxicab, or other conveyance which provides general or special service to the public, but not including charter or sightseeing service or transportation which is exclusively used for school purposes. Public transportation, public transportation services, or public transportation purposes as defined by this section are declared by law to be transportation purposes within the meaning of section 9 of article IX of the state constitution of 1963 .
- (f) “Public transportation facility” means all property, real and personal, which enhances the effectiveness of a public transportation system and is functionally related to a public transportation system or which creates new or enhanced coordination between public transportation and other forms of transportation, including street railways, motor buses, tramlines, subways, monorails, rail rapid transit facilities, tunnels, bridges, and parking facilities and other property owned or leased by a public authority for which the public authority is eligible for federal assistance as administered by the United States department of transportation.
- (g) “Public transportation system” means a system for providing public transportation service, including public transportation facilities.
- (h) “Revenue” means money received by the public authority as provided in section 17.
- (i) “Taxable property” means the property taxable under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, except for property expressly exempted under that act.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

**124.453 Public authority; formation generally; membership; articles of incorporation; approval.**

Sec. 3. (1) An authority incorporated under Act No. 55 of the Public Acts of 1963, being sections 124.351



to 124.359 of the Michigan Compiled Laws, or an authority having a population of less than 1,000,000 incorporated under the metropolitan transportation authorities act of 1967, Act No. 204 of the Public Acts of 1967, being sections 124.401 to 124.425 of the Michigan Compiled Laws, may form a public authority under this act. Political subdivisions which are members of an authority described in this subsection which form a public authority shall be members of the public authority.

(2) Formation of a public authority pursuant to subsection (1) may be accomplished by adoption of articles of incorporation by resolution adopted by a majority of the members serving on the governing body of the authority incorporated under Act No. 55 of the Public Acts of 1963 or Act No. 204 of the Public Acts of 1967.

(3) An authority created under an interlocal agreement pursuant to the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.501 to 124.512 of the Michigan Compiled Laws, for the purpose of providing public transportation service may form a public authority under this act. Political subdivisions which have created an entity described in this subsection which form a public authority shall be members of the public authority.

(4) Formation of a public authority pursuant to subsection (3) may be accomplished by adoption of articles of incorporation and by amendment of the interlocal agreement by resolution adopted by a majority of the governing body of each public entity which were parties to the interlocal agreement. In addition, if a separate legal or administrative entity was created under the interlocal agreement, a public authority may be formed pursuant to subsection (3) only with the approval of the entity empowered by the interlocal agreement to bring action in court against other entities, on behalf of the authority created under the interlocal agreement.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.454 Public authority; formation by political subdivision; articles of incorporation.**

Sec. 4. (1) A political subdivision or a combination of 2 or more political subdivisions may form a public authority under this act. A city, village, or township forming a public authority by itself or in combination with 1 or more other political subdivisions may provide that only a portion of the city, village, or township shall become part of the public authority. The portion of the city, village, or township to become part of the public authority shall be bounded by precinct lines drawn for election purposes.

(2) Formation of a public authority pursuant to subsection (1) shall be accomplished by adoption of articles of incorporation by an affirmative vote of a majority of the members elected to and serving on the legislative body of each political subdivision.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.455 Articles of incorporation; endorsement as evidence of adoption; publication; filing; operative public authority; effective date of articles; validity of incorporation conclusively presumed; exception.**

Sec. 5. (1) The adoption of articles of incorporation under this act shall be evidenced by an endorsement on the articles of incorporation by the clerk of each respective political subdivision or by the recording officer of the incorporating authority under section 3 in a form substantially as follows:

The foregoing articles of incorporation were adopted by an affirmative vote of a majority of the members serving on the governing or legislative body of \_\_\_\_\_, \_\_\_\_\_ at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) The articles of incorporation shall be published by the person or persons designated in the articles at least once in a newspaper designated in the articles and circulated within the area proposed to be served by the public authority. One printed copy of the articles of incorporation shall be filed with the secretary of state, the clerk of each county to be served by the public authority, and the director of the state transportation department by the person designated to do so by the articles. The public authority shall become operative and the articles of incorporation effective at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the publication of the articles of incorporation.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.456 Articles of incorporation; contents.**

Sec. 6. The articles of incorporation shall state the name of the public authority; the name or names of the incorporating authority or the incorporating political subdivisions; the portion of an incorporating city,

village, or township to become part of the public authority, if less than the entire city, village, or township is to become part of the public authority; the purposes for which it is formed; the power, duties, and limitations of the public authority and its officers; the composition and method of selecting its governing body and officers; the person or persons charged with the responsibility of causing the articles of incorporation to be published and the printed copies of the articles of incorporation to be filed as provided in this act; the method of amending the articles of incorporation; and any other matters which the incorporators consider advisable.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

**124.457 Membership after formation of public authority; resolution; approval, execution, filing, and publication of amendment to articles.**

Sec. 7. A political subdivision or a portion of a city, village, or township bounded by lines described in section 4 may become a member of a public authority after the public authority's formation under this act upon resolution adopted by a majority vote of the members elected to and serving on the legislative body of the political subdivision requesting membership for all or a portion of the political subdivision and upon resolution adopted by a 2/3 vote of the members serving on the board of the public authority approving an amendment to the articles of incorporation of the public authority adding all or a portion of the political subdivision. The amendment to the articles of incorporation shall be executed by the clerk of the political subdivision, all or a part of which is being added and shall be filed and published in the same manner as the original articles of incorporation.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

**124.458 Conditions to release from membership in public authority; taxes; transportation services; evidence of release; withdrawal from public authority; violation of MCL 168.1 to 168.992 applicable to petitions; penalties; notice.**

Sec. 8. (1) Except as otherwise provided in subsection (2), a political subdivision that is a member of a public authority or the portion of a city, village, or township, which portion is a member of a public authority may be released from membership in the public authority if all of the following conditions are met:

(a) Adoption of a resolution by a majority of the members elected to and serving on the legislative body of the political subdivision requesting release from membership.

(b) Acceptance of the request by a 2/3 vote of the members serving on the board of the public authority, excluding the members representing the political subdivision requesting release.

(c) Payment or the provision for payment is made regarding all obligations of the political subdivision to the public authority or its creditors.

(2) Notwithstanding subsection (1), an entity that is a political subdivision and is a member of a public authority or the portion of a city, village, or township, which portion is a member of a public authority, may be released from membership in the public authority if all of the following conditions are met:

(a) The entity desiring to withdraw from the authority has approved the question by a majority of the qualified and registered electors voting at a general or special election held in November before the expiration of a tax authorized to be levied under this act.

(b) Subject to subsection (6), a petition that bears the signatures of registered electors of the entity equal to at least 20% of the number of votes cast in the political subdivision or portion of a city, village, or township for all candidates for governor in the last general election in which a governor was elected and that requires the governing body of the entity by resolution to submit the question to its electors at the next general or special election is filed not less than 60 days before the election with the clerk of the entity presenting the question.

(c) The vote upon the question approving the resolution is by ballot and is in substantially the following form:

"Shall \_\_\_\_\_ (township, village, city, or other) as provided by 1986 PA 196 withdraw from the authority as a member?

Yes \_\_\_\_  
No \_\_\_\_".

(d) All ballots are cast, canvassed, and the results of the election certified in the same manner as ballots on any other question submitted to the electors of the entity seeking withdrawal pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(e) Payment or the provision for payment is made regarding all obligations of the political subdivision to the public authority or its creditors. If withdrawal is approved by a majority of the electors voting on the question, the decision will take effect at the expiration date of the tax and neither the authority nor officials of the political subdivision may appeal or amend this decision.

(3) A tax authorized to be levied by a public authority within the boundaries of the political subdivision or the portion of a political subdivision to be released shall continue to be levied for the period of time originally authorized and shall be paid over to the public authority originally authorized to be the recipient of the tax revenue. A political subdivision or portion of a political subdivision that has been released from an authority shall continue to receive transportation services from the authority until the political subdivision or portion of the political subdivision is no longer required to pay a tax levied by the authority.

(4) Release of a political subdivision or portion of a political subdivision from a public authority shall be evidenced by an amendment to the articles of incorporation executed by the recording officer of a public authority and filed and published in the same manner as the original articles of incorporation.

(5) A political subdivision or other entity that is part of a public authority under this act may withdraw from the public authority until the expiration of the thirtieth day following the date the public authority is incorporated or until the expiration of the thirtieth day after receiving notification under subsection (7), whichever is later, without meeting the conditions listed in subsection (1) or (2). If a public authority under this act has as a member a political subdivision that is part of a metropolitan statistical area, as defined by the United States department of commerce or a successor agency, and the metropolitan statistical area has a population of not less than 600,000 and not more than 1,500,000, a political subdivision or other entity that is part of the public authority may also withdraw from the public authority until the expiration of 30 days after the date on which the board of the public authority adopts a resolution calling for an election for the purpose of levying a tax pursuant to section 18, without meeting the conditions listed in subsection (1) or (2). If all or a portion of a city, village, or township is part of an authority incorporating as a public authority under this act, the city, village, or township may also decide to only withdraw a portion of the entity bounded by the lines described in section 4 from the public authority under the deadline established in this subsection. In addition, a political subdivision or other entity that is part of a public authority under this act may withdraw from the public authority in any year in which a tax authorized to be levied under this act expires, without meeting the conditions listed in subsection (1) or (2), if the political subdivision or entity makes the determination to withdraw by a vote of its legislative body held in January of that year. Further, if all or a portion of a city, village, or township is part of an authority incorporating as a public authority under this act, the city, village, or township may also decide to only withdraw a portion of the entity bounded by the lines described in section 4 from the public authority in that same January. However, if a tax is authorized to be levied in a political subdivision or portion of a political subdivision by a public authority under this act and the political subdivision or portion of a political subdivision withdraws pursuant to this subsection, the tax shall continue to be levied in the political subdivision or portion of a political subdivision for the period of time originally authorized. A political subdivision or portion of a political subdivision that withdraws from the authority shall continue to receive public transportation services from the authority until the political subdivision or portion of the political subdivision is no longer required to pay a tax levied by the authority.

(6) A petition under subsection (2), including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in subsection (2) is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(7) An authority that forms under this act on or after May 1, 2006 shall notify all political subdivisions or portions of any city, village, or township that are included in the authority that the political subdivision or portion of the political subdivision is included in the authority. The authority shall include in this notification notice of the right to withdraw from the authority under this section. The political subdivision or portion of the political subdivision that is notified has 30 days after receiving the notification to withdraw from the authority pursuant to subsection (5).

**History:** 1986, Act 196, Imd. Eff. July 10, 1986;—Am. 1990, Act 10, Eff. Mar. 1, 1990;—Am. 1998, Act 168, Eff. Mar. 23, 1999;—Am. 2006, Act 175, Imd. Eff. June 6, 2006.

#### **124.459 Tax limitations.**

Sec. 9. A public authority is intended to and shall be considered to be an authority the tax limitations of which are provided by charter or general law within the meaning of section 6 of article IX of the state constitution of 1963.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.460 Validation and ratification of acts taken before effective date of act.**

Sec. 10. The organization, existence, membership, and all acts taken before the effective date of this act by an authority incorporated or purporting to be incorporated under Act No. 55 of the Public Acts of 1963, being

sections 124.351 to 124.359 of the Michigan Compiled Laws; an authority having a population of less than 1,000,000 incorporated or purporting to be incorporated under the metropolitan transportation authorities act of 1967, Act No. 204 of the Public Acts of 1967, being sections 124.401 to 124.425 of the Michigan Compiled Laws; or an authority created or purported to be created under an interlocal agreement pursuant to Act No. 7 of the Public Acts of 1967, being sections 124.501 to 124.512 of the Michigan Compiled Laws, are hereby validated and ratified.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.461 Assumption, transfer, assignment, or conveyance of tax revenues, property, rights, duties, and obligations.**

Sec. 11. (1) All tax revenue, or real or personal property or property rights, money, authorizations to levy a tax, and all other rights, duties, and obligations of an existing authority that forms a public authority in accordance with section 3 shall be assumed by and transferred to the public authority created under this act without execution or delivery of any document or instrument transferring or assigning them.

(2) A political subdivision forming a public authority under this act, including a political subdivision only a portion of which is part of the public authority pursuant to a decision by the legislative body of the political subdivision, may assign or convey any of its tax revenue, real or personal property or property rights, and all other rights, duties, and obligations involving public transportation service to the public authority formed by the political subdivision. However, a transfer or assignment shall not be made which materially adversely affects the contractual rights of a person having a contract with that political subdivision.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.462 Powers of public authority generally; public authority as public benefit agency and instrumentality of state.**

Sec. 12. A public authority created under this act may plan, promote, finance, acquire, improve, enlarge, extend, own, construct, operate, maintain, replace, and contract for public transportation service by means of 1 or more public transportation systems and public transportation facilities. A public authority is a public benefit agency and instrumentality of the state with all the powers of a public corporation, to accomplish its purposes and to control, operate, administer, and exercise the franchise of the public transportation system and public transportation facilities, if any.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.463 Additional powers of public authority.**

Sec. 13. A public authority formed under this act shall be a corporate body with power to sue and be sued in any court of the state and shall be considered to be an agency and instrumentality of the state. The public authority shall possess all the powers necessary to carry out the purposes of its formation and all things incident to carrying out the purposes of its formation. The public authority shall be administered in the manner determined by the board and as provided in its articles of incorporation. The public authority by contract may employ a management firm, either corporate or otherwise, to operate the public transportation system, under the supervision of the public authority. The enumeration of powers of this act shall not be construed as a limitation on the general powers of the public authority.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.464 Additional powers of public authority.**

Sec. 14. A public authority formed under this act, in addition to its other powers and duties, may:

(a) Adopt bylaws and rules of administration to accomplish the purposes of this act.

(b) Provide public transportation service and public transportation facilities within or without the boundaries of the public authority as provided in Act No. 51 of the Public Acts of 1951, being sections 247.651 to 247.674 of the Michigan Compiled Laws, except that a public authority may not provide public transportation service in an area within the boundaries of a member or a released or withdrawn member, other than an entity withdrawing under section 8(5), of another authority formed under this or any other act without the agreement and consent of the other authority.

(c) Acquire and hold, by purchase, lease, grant, gift, devise, land contract, installment purchase contract, bequest, condemnation, or other legal means, real and personal property, including franchises, easements, or rights of way on, under, or above any property within or without the boundaries of the public authority as provided in Act No. 51 of the Public Acts of 1951, and pay for the same from or pledge for the payment thereof, revenue of the public authority. Subject to reasonable use, the public authority may use space and areas over, under, and upon the public streets and highways to carry out its duties.

- (d) Ask appropriate local political subdivisions to begin condemnation proceedings.
- (e) Apply for and accept grants, loans, or contributions from the federal government or any of its agencies, the state or other public or private agencies to be used for any of the purposes of this act and to do any and all things within its express or implied powers necessary or desirable to secure that financial or other aid or cooperation in the carrying out of any of the purposes of this act.
- (f) Sell, lease, or use any property acquired for the purposes of this act but not needed for those purposes, and lease advertising space and grant concessions for the sale of newspapers and other articles and for services on or in any portion of the property under the jurisdiction of the public authority.
- (g) Grant to utilities, public or privately owned, the right to use the property or any part of the property of the public transportation facilities. A public authority formed under this act also may grant to any other public authority formed under this act the right to use any part of the public transportation facilities.
- (h) Contract with any other transportation authority or political subdivision of the state or another state or any agency or instrumentality of the state or another state or another nation or private corporation or person for service contracts, joint use contracts, or contracts for the construction or operation of any part of the public transportation facilities.
- (i) Investigate transportation requirements, needs, and programs and engage by contract consultants as may be necessary and cooperate with the federal government, state, political subdivisions, and other authorities or transportation agencies in those investigations.
- (j) Hire employees, attorneys, accountants, and consultants as the board considers necessary to carry out the purposes of the authority.
- (k) Lend money derived from the revenues of the public authority to any persons, corporations, or associations, public or private, for the purpose of financing qualified mass commuting vehicles, as defined in the internal revenue code that will be leased or sold to the public authority and to sell and lease or purchase back mass commuting vehicles, as defined in the internal revenue code.
- (l) Impose and collect rents, charges, fees, or fares from users of public transportation services or public transportation facilities.
- (m) Exercise all other powers incidental, necessary, or convenient for the exercise of the powers granted in this act.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.465 Collective bargaining agreements; employees entering military service.**

Sec. 15. (1) A public authority formed under this act shall have the right to bargain collectively and enter into agreements with labor organizations pursuant to Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws. Upon acquisition or reincorporation of a public transportation system, the public authority shall assume and be bound by any existing collective bargaining agreements applicable to that system for the remainder of the term of the agreement, and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. The acquisition or reincorporation of a public transportation system by the public authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. Members and beneficiaries of any pension or retirement system established by the existing public transportation system shall continue to have the same rights, privileges, benefits, obligations, and status under the new public authority.

(2) If an existing collective bargaining agreement is expiring at the time of acquisition or reincorporation of a public transportation system to a public authority under this act, the acquisition or reincorporation does not affect the obligation of each of the parties to bargain collectively pursuant to the requirements of Act No. 336 of the Public Acts of 1947.

(3) Employees who left the employ of the acquired public transportation system to enter the military services of the United States shall have the same rights as to the public transportation system established by the public authority pursuant to Act No. 263 of the Public Acts of 1951, being sections 35.351 to 35.356 of the Michigan Compiled Laws, as they would have had under the acquired public transportation system.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.466 Exemption of public authority from certain acts in exercise of powers.**

Sec. 16. In the exercise of its powers within the boundaries of the public authority, a public authority is exempt from the motor carrier act, Act No. 254 of the Public Acts of 1933, being sections 475.1 to 479.20 of the Michigan Compiled Laws; Act No. 3 of the Public Acts of 1939, being sections 460.1 to 460.8 of the Michigan Compiled Laws; and Act No. 432 of the Public Acts of 1982, being sections 474.101 to 474.141 of the Michigan Compiled Laws.



**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.467 Public transportation service; financing.**

Sec. 17. Public transportation service, including any public transportation system and public transportation facilities, may be financed by the public authority by any 1 or more of the following means:

- (a) By service charges, fees, or fares to users of the public transportation services.
- (b) By funds disbursed by the state to the public authority and usable by the public authority.
- (c) By any other income or revenue, including appropriations or contributions, or other revenue of the members of the public authority and any political subdivisions.
- (d) By grants, loans, appropriations, payments, or contributions from the federal government, this state, another state or other governmental units and grants, contributions, gifts, devises, or bequests from public or private sources.
- (e) By proceeds of ad valorem taxes, special assessments, or charges imposed pursuant to law and collected by the state or a political subdivision or the public authority and returned or paid to the public authority pursuant to law or contract.
- (f) By proceeds of an income tax as may be provided by law.
- (g) By issuance of bonds or notes as provided by this act.
- (h) By means of land contracts, installment purchase contracts, or leases authorized by this act.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.468 Tax levy; collection.**

Sec. 18. (1) A public authority formed under this act may levy a tax on all of the taxable property within the limits of the public authority for public transportation purposes as authorized by this act.

(2) The tax authorized in subsection (1) shall not exceed 5 mills of the state equalized valuation on each dollar of assessed valuation of taxable property within the limits of the applicable public authority.

(3) The tax authorized under subsection (1) shall not be levied except upon the approval of a majority of the registered electors residing in the public authority affected and qualified to vote and voting on the tax at a general or special election. The election may be called by resolution of the board of the public authority. The recording officer of the public authority shall file a copy of the resolution of the board calling the election with the clerk of each affected county, city, or township not less than 60 days before the date of the election. The resolution calling the election shall contain a statement of the proposition to be submitted to the electors. Each county, city, and township clerk and all other county, city, and township officials shall undertake those steps to properly submit the proposition to the electors of the county, city, and township at the election specified in the resolutions of the public authority. The election shall be conducted and canvassed in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, except that if the public authority is located in more than 1 county, the election shall be canvassed by the state board of canvassers. The results of the election shall be certified to the board of the public authority promptly after the date of the election. Not more than 1 election may be held in a public authority in a calendar year for approval of the tax authorized under subsection (1). If the election is a special election, the public authority in which the election is held shall pay its share of the costs of the election.

(4) Except as otherwise provided in this subsection, the taxes authorized by this section may be levied at a rate and for a period of not more than 5 years as determined by the public authority in the resolution calling the election and as set forth in the proposition submitted to the electors. Taxes may be levied at a rate and for a period of not more than 25 years as determined by the public authority in the resolution calling the election and as set forth in the proposition submitted to the electors if the public authority seeking the levy is seeking the levy for public transit services that include a fixed guideway project authorized under 49 USC 5309.

(5) The tax rate authorized by this section shall be levied and collected as are all ad valorem property taxes in the state and the recording officer of the public authority shall at the appropriate times certify to the proper tax assessing or collecting officers of each tax collecting county, city, and township the amount of taxes to be levied and collected each year by each county, city, and township. Consistent with subsection (6), the board of the public authority shall determine on which tax roll, if there be more than 1, of each county, city, or township that the taxes authorized by this section shall be collected. Each tax assessing and collecting officer and each county treasurer shall levy and collect the taxes certified by the public authority and pay those taxes to the public authority by the time provided in section 43 of the general property tax act, 1893 PA 206, MCL 211.43. The tax rate authorized by this section may be first levied by the public authority as a part of the first tax roll of the appropriate counties, cities, and townships occurring after the election described in subsection (3). The tax may be levied and collected on the July or December tax roll next following the date of election, if the tax is certified to the proper tax assessing officials not later than May 15 or September 15, respectively,



of the year in which the election is held.

(6) A public authority which is authorized to impose a July property tax levy and if it determines to do so, it shall negotiate agreements with the appropriate cities and townships for the collection of that levy. If a city or township and the public authority fail to reach an agreement for the collection by the city or township of the July property tax levy of the public authority, the public authority then may negotiate, until April 1, a proposed agreement with the county treasurer to collect its July property tax levy against property located in that city or township. If the county treasurer and the public authority fail to reach an agreement for the collection by the county of the July property tax levy of the public authority, the July property tax levy shall be collected with the December property tax levy. Any agreement negotiated under this subsection shall guarantee the collecting unit its reasonable expenses. The provisions of this subsection shall not apply to a city or township which is levying a July property tax.

(7) If, pursuant to subsection (6), the public authority has reached a proposed agreement with a county treasurer on the collection of its July property tax levy against property located in a city or township with which an agreement to collect this levy could not be made pursuant to subsection (6), the public authority shall notify by April 15 that city or township of the terms of that fact and the city or township shall have 15 days in which to exercise an option to collect the public authority's July property tax levy.

(8) Collection of all or part of a public authority's property tax levy by a treasurer pursuant to subsection (6) or (7) shall comply with all of the following:

(a) Collection shall be either 1/2 or the total of the property tax levy against the properties, as specified for that year in the resolution of the public authority.

(b) The amount the public authority has agreed to pay as reasonable collection expenses shall be stated in writing and reported to the state treasurer.

(c) Taxes authorized to be collected shall become a lien against the property on which assessed, and due from the owner of that property, on July 1.

(d) Taxes shall be collected on or before September 14 and all taxes and interest imposed pursuant to subdivision (f) unpaid before March 1 shall be returned as delinquent on March 1. Taxes delinquent under this subdivision shall be collected pursuant to the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(e) Interest shall be added to taxes collected after September 14 at that rate imposed by section 59 of the general property tax act, 1893 PA 206, MCL 211.59, on delinquent property tax levies which became a lien in the same year.

(f) All or a portion of fees or charges, or both, authorized under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, may be imposed on taxes paid before March 1 and shall be retained by the treasurer actually performing the collection of the July property tax levy of the public authority, regardless of whether all or part of these fees or charges, or both, have been waived by the township or city.

(9) An agreement for the collection of a July property tax levy of a public authority with a county treasurer shall include a schedule for delivering collections to the public authority.

(10) To the extent applicable and consistent with the requirements of this section, the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, shall apply to proceedings in relation to the assessment, spreading, and collection of taxes pursuant to this section. Additionally, in relation to the assessment, spreading, and collection of taxes pursuant to this section, the county treasurer shall have powers and duties similar to those prescribed by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for township supervisors, township clerks, and township treasurers. However, this section shall not be considered to transfer any authority over the assessment of property.

(11) If a county treasurer collects the July property tax levy of the public authority, the township or city shall deliver by June 1 a certified copy of the assessment roll containing state equalized valuations for each parcel of taxable property in the township or city to the treasurer collecting the July property tax levy of the public authority. The county treasurer receiving this certified copy of the assessment roll shall remit the necessary cost incident to the reproduction of the assessment roll to the township or city.

(12) A county treasurer collecting taxes pursuant to this section shall be bonded for tax collection in the same amount and in the same manner as a township treasurer would be for undertaking the duties prescribed by this section.

(13) An agreement for the collection of a July property tax levy between a public authority and a county may cover July collections for 2 years. If an agreement covers July collections for 2 years, the notice required by subsection (7) and the option to reconsider provided by subsection (7) shall not apply for July collections in the second year.

(14) If collections are made pursuant to this section by a county treasurer, all payments from a public authority for collecting its July property tax levy and all revenues generated from collection fees shall be deposited, when received or collected, in a fund, which fund shall be used by the county treasurer to pay for

the cost of collecting the public authority's July property tax levy.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986;—Am. 2006, Act 175, Imd. Eff. June 6, 2006.

#### **124.469 Additional tax levy.**

Sec. 19. Any member of the public authority or a political subdivision otherwise granted taxing authority under state law may levy a tax on all of the taxable property within the limits of the political subdivision, and appropriate, grant, or contribute the proceeds of the tax to the public authority for public transportation purposes as authorized by this act or to provide sufficient money to fulfill its contractual obligation to the public authority under section 20, which tax shall be within charter, statutory, and constitutional limitations.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.470 Contract with public authority to make payments, appropriations, or contributions; pledge of full faith and credit; tax levy; execution of contract.**

Sec. 20. (1) Any member of the public authority or a political subdivision may contract with the public authority to make payments, appropriations, or contributions to the public authority of the proceeds of taxes, special assessments, or charges imposed and collected by the political subdivision or out of any other funds legally available.

(2) Any member of the public authority or a political subdivision may pledge its full faith and credit for payment of its contractual obligation to the public authority.

(3) If the public authority has issued notes or bonds in anticipation of payments, appropriations, or contributions to be made to the public authority pursuant to contract by a member of the public authority or a political subdivision, the political subdivision may levy a tax, subject to all appropriate statutory and constitutional requirements, on all taxable property in the political subdivision to provide sufficient money to fulfill its contractual obligation to the public authority, which tax as to rate or amount will be as provided in section 6 of article IX of the state constitution of 1963.

(4) Any member or political subdivision desiring to enter into a contract under subsection (1) shall authorize by resolution of its governing body the execution of the contract.

(5) Any political subdivision that forms or becomes a member of the public authority under this act and, before the effective date of the formation or membership, has authorized the levy of a tax to provide money for public transportation purposes or has imposed or collected special assessments or charges for public transportation purposes may levy or impose and collect the tax or special assessment or charge and contract with the public authority to make payments, appropriations, or contributions to the public authority of the proceeds of the taxes, special assessments, or charges, subject to conditions of the original authorization.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.471 Duties of public authority.**

Sec. 21. Each public authority created under this act shall do the following:

(a) Obtain an annual audit in accordance with sections 6 to 13 of Act No. 2 of the Public Acts of 1968, being sections 141.426 to 141.433 of the Michigan Compiled Laws. The audit shall also be in accordance with generally accepted government auditing standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements. A copy of the annual audit shall be filed with the state treasurer in accordance with section 4(2) of Act No. 2 of the Public Acts of 1968, being section 141.424 of the Michigan Compiled Laws and a copy shall be filed with the state transportation department in accordance with section 10h(2) of Act No. 51 of the Public Acts of 1951, being section 247.660h of the Michigan Compiled Laws.

(b) Prepare budgets and appropriations acts in accordance with sections 14, 15(1)(a) to 15(1)(g), 15(1)(i), 15(2), 16, 17, 18, and 19 of the Uniform Budget Act, Act No. 2 of the Public Acts of 1968, being sections 141.434 to 141.439 of the Michigan Compiled Laws.

(c) If ending a fiscal year in a deficit condition, file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of Act No. 140 of the Public Acts of 1971, being section 141.921 of the Michigan Compiled Laws. A copy of the financial plan shall also be filed with the state transportation department.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.472 Notes and bonds generally.**

Sec. 22. A public authority may, by resolution of its board, borrow money and issue its notes and bonds in anticipation of the collection of taxes and other revenues for its then next succeeding fiscal year, or the taxes or other revenue for its current fiscal year to provide funds for operating purposes or for capital purposes

related to public transportation facilities.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

**124.473 Notes and bonds; additional provisions; tax exemption; advancing money or delivering property to carry out powers and duties; repayment or payment.**

Sec. 23. (1) A public authority may borrow money and issue notes and bonds to acquire, construct, or purchase public transportation facilities and to otherwise finance and carry out its powers and duties. The notes and bonds may pledge, be payable from, and may be issued in anticipation of payment of the proceeds of any of the methods of financing described in section 17 or elsewhere in this act or as may be provided by law.

(2) The public authority may issue bonds or notes at any time to retire, fund, or refund, in whole or in part, outstanding bonds or notes issued pursuant to this act, or for transportation purposes under any other act including the payment of interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds or notes, redemption premium, if any, and any commission, service fees, and other expenses necessary to be paid in connection with the bonds or notes, whether the bonds or notes to be refunded have matured or are redeemable or shall at a later date mature or become redeemable. If considered advisable by the public authority, the public authority may issue bonds or notes partly to refund outstanding bonds or notes and partly for any other purpose contemplated by this act.

(3) The bonds and notes issued pursuant to section 22 or this section may be issued pursuant to, and shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The public authority, by resolution of its board, shall provide for the issuance of the notes or bonds for the purpose of paying part or all of the cost of the public transportation facilities or authorized programs, which cost may include an allowance for legal, engineering, architectural, and consulting services; interest on the bonds or notes becoming due before the collection of the first revenue available for the payment of the interest as determined by the authority; a debt service reserve; and other necessary incidental expenses. Principal of, and interest and redemption premiums on, the bonds or notes issued under this section shall be payable solely from revenue, the other sources described in this section, or otherwise described in this act. Any interest shall be payable on the dates as determined in the resolution authorizing the issuance of the bonds or notes. The board of the public authority, in the resolution authorizing the issuance of the bonds or notes shall determine the principal amount of the bonds or notes to be issued, the registration provisions, the bond or note denominations, the bond or note designations, the rights of prior redemption of the bonds or notes at the option of the public authority or the holders of the bonds or notes, the maximum rate of interest, the method of execution of the bonds or notes, and any other provisions respecting the bonds or notes, the rights of the holders of the bonds or notes, the security for the bonds or notes, and the procedures for disbursement of the bond or note proceeds and for the investment of the proceeds of bonds or notes and money for the payment of bonds or notes. The board of the public authority in the resolution authorizing the issuance of bonds or notes may provide for the assignment of the revenues pledged to 1 of the paying agents for the bonds or notes or to a trustee, as provided in this act. The board of the public authority, in the resolution or resolutions authorizing the bonds or notes, may provide for the terms and conditions upon which the holders of the bonds or notes, or any portion of the bond or noteholders or any trustee for the bond or noteholders, shall be entitled to the appointment of a receiver. The resolution authorizing the bonds or notes may provide for the appointment of a trustee for the bond or noteholders, may give to the trustee the appropriate rights, duties, remedies, and powers, with or without the execution of a deed of trust or mortgage, necessary and appropriate to secure the bonds or notes.

(5) All bonds and notes and the interest coupons attached to the bonds or notes are declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions for registration of the bonds or notes which may appear on the bonds or notes.

(6) The property of the authority, its income and operation, and any vendor, vendee, lessor, and lessee interest in any property sold or leased pursuant to section 24 shall be exempt from all taxation by this state or any of its political subdivisions and all bonds and notes of the authority, the interest on the bonds and notes, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions. This state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this act, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the fund, issued pursuant to this act, the interest on the notes and bonds, the transfer of the bonds or notes, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation as provided by the laws of this state.

(7) The public authority may issue additional bonds or notes with respect to the pledge of the revenues with previously issued bonds or notes of the public authority for the purpose and under the terms and conditions provided in the resolution authorizing the previous issue of bonds. The public authority may enter into agreements with the holders of the bonds or notes or with others for the bonds or notes to be delivered to the public authority or others before the stated maturities of the bonds or notes.

(8) This state, a political subdivision, or a private corporation, partnership, or individual may advance money or deliver property to the public authority to finance or to carry out its powers and duties. The public authority may agree to repay the advances or pay for the property within a period not exceeding 40 years, from the proceeds of its bonds or notes or from other funds legally available for use, with or without interest as may be agreed at the time of advance or of repayment. The obligation of the public authority to make the repayment or payment may be evidenced by a contract or note or notes, which contract or note may pledge the full faith and credit of the public authority, but the contract or note shall not be an obligation within the meaning of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. A political subdivision, subject to applicable constitutional limitations and procedures, may pledge its full faith and credit for the payment of bonds or notes of the public authority upon adoption of a resolution or a majority vote of the members elected to and serving on its governing body so providing.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986;—Am. 2002, Act 335, Imd. Eff. May 23, 2002.

#### **124.474 Loans.**

Sec. 24. The public authority may lend money including money derived from the proceeds of sale of its bonds or notes to another public authority, a political subdivision, any other public entity, or a private corporation, partnership, or individual for the purpose of financing qualified mass commuting vehicles, as defined in the internal revenue code, that will be leased or sold to the public authority and to sell and lease or purchase back mass commuting vehicles, as defined in the internal revenue code. For that purpose, the public authority may borrow money and issue bonds or notes, enter into loan agreements, leases, or purchase agreements and any other agreements including indemnification agreements as are necessary or appropriate in the judgment of the board to accomplish purposes of this section.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.475 Revenues pledged for payment of debt service on bonds or notes subject to statutory lien; substitution of other security.**

Sec. 25. The revenues pledged for payment of debt service on bonds or notes shall be and remain subject to a statutory lien until the payment in full of the principal of and interest on the bonds or notes unless the resolution authorizing the bonds or notes provides for earlier discharge of the lien by substitution of other security. The pledge of revenues and any statutory lien that exists for the payment of debt service on bonds or notes shall be effective for all purposes without the delivery of any evidence in this regard or any recording.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.476 Investments; use of investment income.**

Sec. 26. (1) The public authority may invest any of its money in 1 or more of the following:

(a) Direct obligations of the United States and obligations the principal and interest of which are unconditionally guaranteed by the United States.

(b) Certificates of deposit issued or bank accounts in any bank, trust company, or savings institution whose deposits are insured by the federal deposit insurance corporation or federal savings and loan insurance company.

(c) Prime commercial paper having the highest rating given by a rating service which the department of treasury determines rates the majority of the bond and note issues of the state.

(d) Repurchase agreements with any bank or trust company which is a member of the federal deposit insurance corporation and which are secured by any of the types of securities which are obligations described in subdivisions (a), (b), or (c).

(2) Investment income may be used by the public authority for any purpose for which any other money of the public authority may be used and may be pledged or dedicated in whole or in part to a special purpose including payment of debt service on bonds or notes, as the board determines.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.477 Notes and bonds as securities.**

Sec. 27. The notes and bonds of the authority are securities in which the public officers and bodies of this state, municipalities, and municipal subdivisions, insurance companies, associations, and other persons

carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state may properly and legally invest funds.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.478 Validation and ratification of prior acts.**

Sec. 28. The authorization, issuance, sale, execution, and delivery of all issues of bonds and notes authorized, issued, sold, executed, or delivered by an authority before the effective date of this section, and all acts taken by an authority in connection with those bonds and notes are hereby validated and ratified.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.

#### **124.479 Duration of financial obligation.**

Sec. 29. Notwithstanding any other provision of this act, a political subdivision may obligate itself financially for a period over 5 years from the date the obligation is undertaken only if approved by majority vote of the electorate of the political subdivision.

**History:** 1986, Act 196, Imd. Eff. July 10, 1986.



## **URBAN COOPERATION ACT OF 1967**

### **Act 7 of 1967 (Ex. Sess.)**

AN ACT to provide for interlocal public agency agreements; to provide standards for those agreements and for the filing and status of those agreements; to permit the allocation of certain taxes or money received from tax increment financing plans as revenues; to permit tax sharing; to provide for the imposition of certain surcharges; to provide for additional approval for those agreements; and to prescribe penalties and provide remedies.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 1981, Act 17, Imd. Eff. Apr. 29, 1981;—Am. 1987, Act 286, Imd. Eff. Jan. 6, 1988;—Am. 1989, Act 138, Imd. Eff. June 29, 1989;—Am. 1998, Act 169, Eff. Mar. 23, 1999.

*The People of the State of Michigan enact:*

#### **124.501 Urban cooperation act; short title.**

Sec. 1. This act shall be known and may be cited as the “urban cooperation act of 1967”.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968.

#### **124.502 Definitions.**

Sec. 2. As used in this act:

(a) “Interlocal agreement” means an agreement entered into under this act.

(b) “Local governmental unit” means a county, city, village, township, or charter township.

(c) “Province” means a province of Canada.

(d) “Property” means any real or personal property, as described in section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(e) “Public agency” means a political subdivision of this state or of another state of the United States or of Canada, including, but not limited to, a state government; a county, city, village, township, charter township, school district, single or multipurpose special district, or single or multipurpose public authority; a provincial government, metropolitan government, borough, or other political subdivision of Canada; an agency of the United States government; or a similar entity of any other states of the United States and of Canada. As used in this subdivision, agency of the United States government includes an Indian tribe recognized by the federal government before 2000 that exercises governmental authority over land within this state, except that this act or any intergovernmental agreement entered into under this act shall not authorize the approval of a class III gaming compact negotiated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467.

(f) “State” means a state of the United States.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 1987, Act 286, Imd. Eff. Jan. 6, 1988;—Am. 1995, Act 108, Imd. Eff. June 23, 1995;—Am. 2002, Act 439, Imd. Eff. June 13, 2002.

**Compiler's note:** Section 2 of Act 286 of 1987 provides: “An interlocal agreement for an authorized publicly-owned undertaking that is executed before the effective date of this amendatory act and that includes in its provisions a method or formula for equitably providing for and allocating revenues as authorized by section 5 of the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.505 of the Michigan Compiled Laws, is validated and is not affected by this amendatory act.”

Section 2 of Act 108 of 1995 provides: “An interlocal agreement for a publicly-authorized undertaking that is executed before the effective date of this amendatory act and that includes in its provisions a method or formula for equitably providing for and allocating revenues as authorized by section 5 or 5a of the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.505 and 124.505a of the Michigan Compiled Laws, is validated and is not affected by this amendatory act.”

#### **124.503 Conflicting statutory provisions.**

Sec. 3. If any provision of this act conflicts with any other statute of this state providing for the authorization or performance of joint or cooperative agreements or undertakings between public agencies of this state or between public agencies of this state and public agencies of other states or of Canada, the provisions of the other statute shall control.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 2002, Act 439, Imd. Eff. June 13, 2002.

#### **124.504 Joint exercise of powers.**

Sec. 4. A public agency of this state may exercise jointly with any other public agency of this state, with a public agency of any other state of the United States, with a public agency of Canada, or with any public agency of the United States government any power, privilege, or authority that the agencies share in common and that each might exercise separately.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 2002, Act 439, Imd. Eff. June 13, 2002.

#### **124.505 Joint exercise of power by contract; interlocal agreement provisions.**

Rendered Wednesday, May 26, 2010

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of 2010



Sec. 5. A joint exercise of power pursuant to this act shall be made by contract or contracts in the form of an interlocal agreement which may provide for:

(a) The purpose of the interlocal agreement or the power to be exercised and the method by which the purpose will be accomplished or the manner in which the power will be exercised.

(b) The duration of the interlocal agreement and the method by which it may be rescinded or terminated by any participating public agency prior to the stated date of termination.

(c) The precise organization, composition, and nature of any separate legal or administrative entity created in the interlocal agreement with the powers designated to that entity.

(d) The manner in which the parties to the interlocal agreement will provide for financial support from the treasuries that may be made for the purpose set forth in the interlocal agreement, payments of public funds that may be made to defray the cost of such purpose, advances of public funds that may be made for the purposes set forth in the interlocal agreements and repayment of the public funds, and the personnel, equipment, or property of 1 or more of the parties to the agreement that may be used in lieu of other contributions or advances.

(e) The manner in which funds may be paid to and disbursed by any separate legal or administrative entity created pursuant to the interlocal agreement.

(f) A method or formula for equitably providing for and allocating revenues, including, in the case of an authorized undertaking that is publicly owned at the time the interlocal agreement is entered into or becomes publicly owned during the time the interlocal agreement is in effect, revenues derived by or payable to any participating party or any other public agency which revenues directly or indirectly result from that undertaking, whether the revenues are in the form of ad valorem taxes on real or personal property, taxes on income, specific taxes or funds made available by the state in lieu of ad valorem property taxes or local income taxes, any other form of taxation, assessment, levy, or impost, or any money paid under or which revert from a tax increment financing plan. The interlocal agreement may also provide a method or formula equitably providing for and allocating revenues derived from a federal or state grant or loan, or from a gift, bequest, grant, or loan from a private source. The interlocal agreement may also provide for a method or formula for equitably allocating and financing the capital and operating costs, including payments to reserve funds authorized by law and payments of principal and interest on obligations. Each method or formula shall be established by the participating parties to the interlocal agreement on a ratio of full valuation of real property, on the basis of the amount of services rendered or to be rendered, on the basis of benefits received or conferred or to be received or conferred, or on any other equitable basis, including the levying of taxes or assessments on the entire area serviced by the parties to the interlocal agreement, subject to such limitations as may be contained in the constitution and statutes of this state, to pay those capital and operating costs.

(g) The manner of employing, engaging, compensating, transferring, or discharging necessary personnel, subject both to the provisions of applicable civil service and merit systems, and the following restrictions:

(i) The employees who are necessary for the operation of an undertaking created by an interlocal agreement, shall be transferred to and appointed as employees subject to all rights and benefits. These employees shall be given seniority credits and sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired system shall continue to have rights, privileges, benefits, obligations, and status with respect to such established system. The political subdivisions to which the functions or responsibilities have been transferred shall assume the obligation of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare, and pension or retirement provisions for employees. If the employees of an acquired system were not guaranteed sick leave, health and welfare, and pension or retirement pay based on seniority, the political subdivision shall not be required to provide these benefits retroactively.

(ii) An employee who is transferred to a position with the political subdivision shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefits that the employee enjoyed as an employee of the acquired system.

(h) The fixing and collecting of charges, rates, rents, fees, loan repayments, loan interest rates, or other charges on loans, where appropriate, and the making and promulgation of necessary rules and regulations and their enforcement by or with the assistance of the participating parties to the interlocal agreement.

(i) The manner in which purchases shall be made and contracts entered into.

(j) The acquisition, ownership, custody, operation, maintenance, lease, or sale of real or personal property.

(k) The disposition, division, or distribution of any property acquired through the execution of such interlocal agreement.

(l) The manner in which, after the completion of the purpose of the interlocal agreement, any surplus

money shall be returned.

(m) The acceptance of gifts, grants, assistance funds, or bequests and the manner in which those gifts, grants, assistance funds, or bequests may be used for the purpose set forth in the interlocal agreement.

(n) The making of claims for federal or state aid payable to the individual or several participants on account of the execution of the interlocal agreement.

(o) The manner of responding for any liabilities that might be incurred through performance of the interlocal agreement and insuring against any such liability.

(p) The adjudication of disputes or disagreements, the effects of failure of participating parties to pay their shares of the costs and expenses, and the rights of the other participants in such cases.

(q) The manner in which strict accountability of all funds shall be provided for and the manner in which reports, including an annual independent audit, of all receipts and disbursements shall be prepared and presented to each participating party to the interlocal agreement.

(r) The manner of investing surplus funds or proceeds of grants, gifts, or bequests to the parties to the interlocal agreement under the control of a legal or administrative entity created under section 7.

(s) Any other necessary and proper matters agreed upon by the participating public agencies.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 1981, Act 17, Imd. Eff. Apr. 29, 1981;—Am. 1985, Act 10, Imd. Eff. Apr. 15, 1985.

**Compiler's note:** Section 2 of Act 17 of 1981 provides: "This act is intended to be curative in nature, and all interlocal agreements which have been approved under section 10 of Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.510 of the Michigan Compiled Laws, prior to the effective date of this amendatory act, are hereby validated."

#### **124.505a Interlocal agreement for sharing of revenue; contents; decision to enter into agreement; public hearing; referendum; petition; assessment, levy, collection, and distribution of taxes; public policy.**

Sec. 5a. (1) Upon approval of the legislative body of each contracting local governmental unit, 2 or more local governmental units that levy a property tax under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, may enter into an interlocal agreement for the sharing of all or a portion of revenue derived by and for the benefit of a local governmental unit entering into that agreement, which revenue results from the levy of general ad valorem property taxes or specific taxes levied in lieu of general ad valorem property taxes upon any property.

(2) An interlocal agreement under this section may include all necessary and proper matters and shall specify at least all of the following:

(a) The duration of the agreement and the method by which the agreement may be rescinded or terminated by a contracting local governmental unit before the stated date of termination.

(b) A description of the property upon which the taxes to be shared are levied, expressed in terms of type of property or location of property, including a parcel identification number, if any.

(c) The formula or formulas for sharing the tax revenue to be shared.

(d) A schedule and method of distribution of the shared tax revenue.

(e) That the agreement may be terminated or rescinded by a referendum of the residents of a local governmental unit that is a party to the agreement not more than 45 days after the approval of the agreement by the governing body of the local governmental unit.

(3) A decision to enter into an agreement under this section shall be made by a majority vote of the members elected and serving on the legislative body of each affected local governmental unit. The legislative body of each local governmental unit affected by a proposed interlocal agreement under this section shall hold at least 1 public hearing before entering into an agreement under this section. Notice of the hearing shall be given in the same manner provided by the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(4) If within 45 days of the meeting at which an interlocal agreement is approved by a governmental unit under subsection (3) a petition is signed by a minimum of 8% of the registered electors of that local governmental unit voting in the last general election before the adoption of the agreement, a referendum shall be held in that local governmental unit at the next regularly scheduled election or at a special election held for this purpose. If a majority of the electors of the local governmental unit voting on the agreement approve the agreement, the local governmental unit may enter into the agreement. If a petition is not filed as provided in this section, the local governmental unit may enter into the interlocal agreement.

(5) The assessment, levy, collection, and distribution of taxes shall be in accordance with Act No. 206 of the Public Acts of 1893 and the statutes governing specific taxes levied in lieu of general ad valorem property taxes. The public policy of this state is for local governmental units to avoid entering into an interlocal agreement under this section if that interlocal agreement has the effect of transferring employment from 1 or

more local governmental units in this state to 1 or more of the local governmental units entering into the agreement.

**History:** Add. 1987, Act 286, Imd. Eff. Jan. 6, 1988;—Am. 1995, Act 108, Imd. Eff. June 23, 1995.

**Compiler's note:** Section 2 of Act 286 of 1987 provides: "An interlocal agreement for an authorized publicly-owned undertaking that is executed before the effective date of this amendatory act and that includes in its provisions a method or formula for equitably providing for and allocating revenues as authorized by section 5 of the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.505 of the Michigan Compiled Laws, is validated and is not affected by this amendatory act."

Section 2 of Act 108 of 1995 provides: "An interlocal agreement for a publicly-authorized undertaking that is executed before the effective date of this amendatory act and that includes in its provisions a method or formula for equitably providing for and allocating revenues as authorized by section 5 or 5a of the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.505 and 124.505a of the Michigan Compiled Laws, is validated and is not affected by this amendatory act."

#### **124.505b Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 5b. A petition under section 5a or 8a, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 169, Eff. Mar. 23, 1999.

#### **124.506 Execution of agreement; provision of services; exchange of services.**

Sec. 6. An interlocal agreement may provide for 1 or more parties to the agreement to administer or execute the agreement. One or more parties to the agreement may agree to provide all or a part of the services set forth in the agreement in the manner provided in the agreement. The parties may provide for the mutual exchange of services without payment of any contribution other than such services.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968.

#### **124.507 Administrative commission, board, or council; public body, corporate or politic; appointment and removal of members; operation for profit prohibited; earnings; title to property; powers; authorization and power of separate legal or administrative entity; bonds or notes.**

Sec. 7. (1) An interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement which may be a commission, board, or council constituted pursuant to the agreement. The entity shall be a public body, corporate or politic for the purposes of this act. The governing body of each public agency shall appoint a member of the commission, board, or council constituted pursuant to the agreement. That member may be removed by the appointing governing body at will. The administrative or legal entity shall not be operated for profit. No part of its earnings shall inure to the benefit of a person other than the public agencies that created it. Upon termination of the interlocal agreement, title to all property owned by the entity shall vest in the public agencies that incorporated it.

(2) A separate legal or administrative entity created by an interlocal agreement shall possess the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement. The entity may be, in addition to its other powers, authorized in its own name to make and enter into contracts, to employ agencies or employees, to acquire, construct, manage, maintain, or operate buildings, works, or improvements, to acquire, hold, or dispose of property, to incur debts, liabilities, or obligations that, except as expressly authorized by the parties, do not constitute the debts, liabilities, or obligations of any of the parties to the agreement, to cooperate with a public agency, an agency or instrumentality of that public agency, or another legal or administrative entity created by that public agency under this act, to make loans from the proceeds of gifts, grants, assistance funds, or bequests pursuant to the terms of the interlocal agreement creating the entity, and to form other entities necessary to further the purpose of the interlocal agreement. The entity may sue and be sued in its own name.

(3) No separate legal or administrative entity created by an interlocal agreement shall possess the power or authority to levy any type of tax within the boundaries of any governmental unit participating in the interlocal agreement, or to issue any type of bond in its own name, or to in any way indebted a governmental unit participating in the interlocal agreement.

(4) A separate legal or administrative entity created by an interlocal agreement may be authorized by the interlocal agreement to borrow money and to issue bonds or notes in its name for local public improvements or for economic development purposes as provided in the interlocal agreement.

(5) The entity created by the interlocal agreement shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the entity, exceeds 2 mills of the taxable

value of the taxable property within the local governmental units participating in the interlocal agreement as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(6) Bonds or notes issued under this act are a debt of the entity created by the interlocal agreement and not of the participating local governmental units.

(7) Bonds or notes issued under this act are declared to be issued for an essential public and governmental purpose and, together with interest on those bonds or notes and income from those bonds or notes, are exempt from all taxes.

(8) Bonds or notes issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 1985, Act 10, Imd. Eff. Apr. 15, 1985;—Am. 2002, Act 445, Imd. Eff. June 17, 2002.

#### **124.508 Interlocal agreement for acquisition, construction, or operation of revenue-producing facility; provisions; payments, repayments, or returns.**

Sec. 8. If the purpose set forth in an interlocal agreement is the acquisition, construction, or operation of a revenue-producing facility, the agreement may provide for the repayment or return to the parties of all or any part of the contributions, payments, or advances made by the parties pursuant to section 5, and may provide for payment to the parties of any additional sum or sums derived from the revenues of the facility irrespective of whether such contributions, payments, or advances are required to be paid, repaid, or returned from revenues of the facility. Payments, repayments, or returns shall be made at any time and in the manner specified in the agreement, and may be made at any time on or prior to the rescission or termination of the agreement, or completion of the purposes of the agreement.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 1981, Act 17, Imd. Eff. Apr. 29, 1981.

**Compiler's note:** Section 2 of Act 17 of 1981 provides: "This act is intended to be curative in nature and all interlocal agreements which have been approved under section 10 of Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.510 of the Michigan Compiled Laws, prior to the effective date of this amendatory act, are hereby validated."

#### **124.508a Surcharge on households for waste reduction programs and collection of materials for recycling or composting.**

Sec. 8a. (1) Subject to subsection (3), a county, by resolution of the county board of commissioners of the county, or the agency responsible for preparing the solid waste management plan for counties with a population of 690,000 or more as certified by the 1980 census that do not operate under 1973 PA 139, MCL 45.551 to 45.573, or 1966 PA 293, MCL 45.501 to 45.521, as provided in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, may impose a surcharge on households within the county of not more than \$2.00 per month or \$25.00 per year per household for waste reduction programs and for the collection of consumer source separated materials for recycling or composting including, but not limited to, recyclable materials, as defined in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, household hazardous wastes, tires, batteries, and yard clippings.

(2) Subject to subsection (4) and if approved by the voters of a participating unit of government, a county may charge an amount greater than allowed under subsection (1) but not more than \$4.00 per month or \$50.00 per year per household, for the purposes described under subsection (1). The county may include commercial businesses as entities to be subject to the surcharge approved by the voters.

(3) A county or agency shall defer the imposition and collection of a surcharge imposed under subsection (1) in a local unit of government within that county until the county or agency has entered into an interlocal agreement under this act relating to the collection and disposition of the surcharge with the local unit of government. A city in a county in which the agency described in subsection (1) prepared the update to the county's solid waste management plan as provided in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, shall not enter into an interlocal agreement if the city has levied a tax of 3 mills on real property within the city for the disposal or management of solid waste in that city. Petitions for a referendum election on the question of entering an interlocal agreement may be filed with the clerk of the local unit of government no later than 6 months following adoption of a resolution of the county or agency to impose the surcharge or 6 months following any increase in the surcharge. Upon petition of 10% of the qualified electors of a local unit of government voting in the last general election before the adoption of the interlocal agreement by the governing body, the local unit of government shall hold a referendum on whether to reject the entrance into or terminate an interlocal agreement.

(4) An election allowed under subsection (2) shall not be held unless the county board of commissioners passes a resolution authorizing the election. The resolution shall include all of the following:

- (a) The approval to hold the election.
- (b) The name of the individual designated to negotiate the interlocal agreement between the municipalities and townships within the county.
- (c) A date by which each municipality and township within the county shall elect to participate in the interlocal agreement and authorize an election under this section.
- (d) The date for the election.
- (e) The amount of the proposed surcharge.
- (f) Whether commercial businesses will be subject to the proposed surcharge.
- (5) The initial authorization under subsection (4) shall be for 5 years. Any subsequent authorizations shall be for a period of not less than 10 years.
- (6) With the approval of the county, a municipality or township that is not part of an interlocal agreement established under this section may become subject to the agreement by otherwise complying with the requirements of this section.
- (7) With the approval of the county and after providing notice to the municipality or township in which the business is located, a business not subject to this section may agree to be part of an interlocal agreement established under this section and shall be subject to the terms and conditions of the agreement.
- (8) The surcharge approved under subsection (2) shall not apply to vacant land, public-utility-owned land, rights-of-way, and easements that do not generate solid waste.
- (9) A surcharge approved under subsection (2) is a mandatory charge and may be collected by any reasonable billing method approved by the county, including, but not limited to, as part of billings for property taxes, water and sewage usage, or other services provided by the county to households and commercial businesses within the county.
- (10) As used in this section:
  - (a) "Agency" does not include the department of environmental quality.
  - (b) "Commercial businesses" means businesses engaged in the sale, lease, or exchange of goods, services, real property, or any other thing of value. Commercial businesses do not include wholesale businesses engaged in the manufacturing of goods or materials or the processing of goods or materials.

**History:** Add. 1989, Act 138, Imd. Eff. June 29, 1989;—Am. 1996, Act 45, Imd. Eff. Feb. 26, 1996;—Am. 2005, Act 69, Imd. Eff. July 11, 2005.

#### **124.509 Privileges, immunities, and benefits of officers, agents, or employees; obligations and responsibilities of public agencies.**

Sec. 9. (1) All of the privileges and immunities from liability, and exemptions from laws, ordinances and rules, and all pensions, relief, disability, workmen's compensation and other benefits which apply to the activity of officers, agency, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents or employees extraterritorially under the provisions of any such interlocal agreement.

(2) An interlocal agreement does not relieve a public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance thereof by 1 or more of the parties to the agreement or any legal or administrative entity created by the agreement in which case the performance may be offered in satisfaction of the obligation or responsibility.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968.

#### **124.510 Approval of certain agreements by governor; exclusions from funds of state; filing of interlocal agreement.**

Sec. 10. (1) If funds of this state are to be allocated to carry out, in whole or in part, an agreement under this act or if this state, an agency of the United States government, any other state or political subdivision of any other state, or Canada or a political subdivision of Canada is a party to an agreement under this act, an interlocal agreement, prior to and as a condition precedent to its effectiveness, shall be submitted to the governor who shall determine whether the agreement is in proper form and compatible with the laws of this state.

(2) For the purposes of this section, funds of this state do not include grants, gifts, bequests, or assistance funds given to a public agency that is a party to an interlocal agreement if the purpose of that agreement is to administer those grants, gifts, bequests, or assistance funds according to their terms or to combine the proceeds of the parties' grants, gifts, bequests, or assistance funds for investment purposes.

(3) The governor shall approve an agreement submitted to him or her unless the governor finds that the agreement does not meet the conditions set forth in this act or is not compatible with the laws of this state. If



the governor so finds, the governor shall detail in writing addressed to the governing bodies of the public agencies concerned within 90 days the specific respects in which the proposed interlocal agreement fails to meet the requirements of law. The governing bodies of the public agencies concerned shall have 60 days to resubmit the revised interlocal agreement to the governor, who shall approve or disapprove the agreement within 90 days.

(4) Prior to its effectiveness, an interlocal agreement shall be filed with the county clerk of each county where a party to the agreement is located and with the secretary of state.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 1985, Act 10, Imd. Eff. Apr. 15, 1985;—Am. 2002, Act 439, Imd. Eff. June 13, 2002.

#### **124.511 Provision of services or facilities by state officers or agencies; submission of agreement for approval.**

Sec. 11. If an interlocal agreement deals in whole or in part with the provision of services or facilities as to which an officer or agency of the state has constitutional or statutory responsibilities and powers of control, the agreement, as a condition precedent to its effectiveness, shall be submitted to the state officer or agency having such responsibilities and powers of control and shall be approved or disapproved by him or it as to all matters under his or its jurisdiction in the same manner and subject to the same requirements governing the action of the governor pursuant to section 10. This requirement of submission and approval is in addition to and not in substitution for the requirement of approval by the attorney general.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968.

#### **124.512 Appropriation of funds by public agency; sale, lease, or gift of personnel, services, facilities; receipt of grants-in-aid.**

Sec. 12. (1) A public agency entering into an interlocal agreement may appropriate funds and may sell, lease, give, or otherwise supply any party designated to operate the joint or cooperative undertaking any personnel, services, facilities, property, franchises, or funds for the undertaking that may be within its legal power to furnish.

(2) A public agency entering into an interlocal agreement may receive grants-in-aid or other assistance funds from the United States government, this state, or Canada for use in carrying out the purposes of the interlocal agreement.

**History:** 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;—Am. 2002, Act 439, Imd. Eff. June 13, 2002.



**INTERGOVERNMENTAL TRANSFERS OF FUNCTIONS AND RESPONSIBILITIES**  
**Act 8 of 1967 (Ex. Sess.)**

AN ACT to provide for intergovernmental transfers of functions and responsibilities.

**History:** 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968.

*The People of the State of Michigan enact:*

**124.531 Definitions.**

Sec. 1. As used in this act:

(a) "Governing body" means the board, council or body in which the legislative powers of a political subdivision are vested.

(b) "Political subdivision" means a city, village, other incorporated political subdivision, county, school district, community college, intermediate school district, township, charter township, special district or authority.

**History:** 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968.

**124.532 Authority to contract for transfer of functions or responsibilities.**

Sec. 2. Two or more political subdivisions are authorized to enter into a contract with each other providing for the transfer of functions or responsibilities to one another or any combination thereof upon the consent of each political subdivision involved.

**History:** 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968.

**124.533 Valid contracts; conditions.**

Sec. 3. To enter into a valid contract:

(a) The contract shall be approved by concurrent resolution of the governing body of each political subdivision.

(b) The terms of the contract shall be entered in the journal or minutes of proceedings of the governing body of each political subdivision.

(c) A copy of the contract shall be filed with the secretary of state prior to its effective date.

**History:** 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968.

**124.534 Contents of contracts.**

Sec. 4. A contract shall include:

(a) A description of the functions or responsibilities to be transferred.

(b) The effective date of the contract.

(c) The term of operation under the contract.

(d) The manner in which the affected employees, if any, of the participating political subdivisions shall be transferred, reassigned or otherwise treated subject to the following:

(i) Such employees as are necessary for the operation thereof shall be transferred to and appointed as employees subject to all rights and benefits. These employees shall be given seniority credits and sick leave, vacation, insurance and pension credits in accordance with the records or labor agreements from the acquired system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The political subdivision to which the functions or responsibilities have been transferred shall assume the obligations of any system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. If the employees of an acquired system were not guaranteed sick leave, health and welfare and pension or retirement pay based on seniority, the political subdivision shall not be required to provide these benefits retroactively.

(ii) No employee who is transferred to a position with the political subdivision shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits that he enjoyed as an employee of such acquired system.

(e) The manner in which any real property, facilities, equipment or other personal property required in the execution of the contract shall be transferred, sold or otherwise disposed of between the contracting parties.

(f) The method of financing to be used and the amount to be paid by each of the participating units in relation to the undertaking involved.

(g) Other legal, financial and administrative arrangements necessary to effectuate the undertaking.

**History:** 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968.

**124.535 Joint board or commission; establishment; duty; membership.**

Sec. 5. A joint board or commission may be established by the political subdivisions involved to supervise the execution of a contract. An officer or employee of the state or a political subdivision or agency thereof, except a member of the legislature, may serve on or with any joint board or commission created by the contract and shall not be required to relinquish his office or employment by reason of such service.

**History:** 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968.

**124.536 Amendment or termination of contract.**

Sec. 6. A contract may be amended by agreement of the parties thereto in the same manner as the original contract was made. A contract may be terminated by joint action of all parties, or by an individual party not less than 1 year after its notice thereof in writing to all other parties.

**History:** 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968.

**EMERGENCY SERVICES TO MUNICIPALITIES**  
**Act 57 of 1988**

AN ACT to provide for the incorporation by 2 or more municipalities of certain authorities for the purpose of providing emergency services to municipalities; to provide for the powers and duties of authorities and of certain state and local agencies and officers; to guarantee certain labor contracts and employment rights in regard to the formation and reorganization of authorities; to provide for certain condemnation proceedings; to provide for fees; to provide for the levy of property taxes for certain purposes; and to prescribe penalties and provide remedies.

**History:** 1988, Act 57, Eff. Apr. 1, 1988;—Am. 1998, Act 167, Eff. Mar. 23, 1999;—Am. 2006, Act 652, Imd. Eff. Jan. 5, 2007.

*The People of the State of Michigan enact:*

### 124.601 Definitions.

Sec. 1. As used in this act:

(a) “Authority” means an authority incorporated under this act.

(b) “Emergency services” means fire protection services, emergency medical services, police protection, and any other emergency health or safety services designated in the articles of incorporation of an authority.

(c) “Incorporating municipality” means a municipality that becomes part of a new authority in the manner provided in section 2, or joins an existing authority in the manner provided in section 3.

(d) “Municipal emergency service” means an emergency service performed by a municipality, rather than by an authority.

(e) “Municipality” means a county, city, village, or township.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

**124.602 Incorporation of 2 or more municipalities as authority for purpose of providing emergency services; transfer of municipal emergency service; creation of authority by adoption of articles of incorporation; endorsement; form; jurisdiction of authority; publication of articles of incorporation; filing certified copy; effective date of authority; validity of incorporation; applicable laws.**

Sec. 2. (1) Any 2 or more municipalities may incorporate an authority for the purpose of providing emergency services to the incorporating municipalities. An incorporating municipality may transfer to the authority of which it is a part any municipal emergency service.

(2) An authority is created by the adoption of articles of incorporation by the legislative body of each incorporating municipality. The adoption by an incorporating municipality shall be endorsed on the articles of incorporation in the case of a county by the county executive or chairperson of the board of commissioners of the county and the county clerk; in the case of a city by the mayor and clerk of the city; in the case of a village by the president and clerk of a village; and in the case of a township by the supervisor and clerk of a township, in a form substantially as follows:

“The foregoing articles of incorporation were adopted by the \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_ county, Michigan, at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ of said \_\_\_\_\_ Clerk of said \_\_\_\_\_”

(3) An authority's jurisdiction shall be comprised of the total territory within the incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in the articles of incorporation and circulating within the territory of the authority. A printed copy of the articles of incorporation, certified as a true copy by the person or persons designated in the articles, and containing the date and place of publication, shall be filed with the secretary of state. An authority shall become effective at the time provided in its articles of incorporation. The validity of the incorporation of an authority shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the date on which certified copies of the articles of incorporation are filed with the secretary of state.

(4) The laws of this state applying to a municipality that becomes a part of an authority also shall continue to apply to the municipality and the authority after the municipality becomes a part of the authority.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

**124.603 County, city, village, or township as part of existing authority; amendment to articles of incorporation.**

Sec. 3. (1) Any county, city, village, or township may become a part of an existing authority by

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amendment to the authority's articles of incorporation, adopted by the legislative body of the county, city, village, or township and by the legislative body of every other county, city, village, or township of which the existing authority is composed.

(2) Other amendments may be made to an authority's articles of incorporation if adopted by the legislative body of each city, village, or township of which the authority is composed. An amendment shall be endorsed and published, and certified printed copies shall be filed in the same manner as the original articles of incorporation, except that the filed printed copies shall be certified by the recording officer of the authority.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

#### **124.604 Election.**

Sec. 4. (1) Upon petition by not less than 5% of the registered electors residing in a municipality that has not become an incorporating municipality, requesting a referendum on the question of becoming an incorporating municipality, the clerk of the municipality, upon verifying the required number of signatures on the petitions, shall submit the question of whether the municipality should become an incorporating municipality to the vote of the electors of the municipality at the next general election or special election called for that purpose, and conducted in accordance with the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws.

(2) The clerk of the municipality shall prepare the question for the ballot to be used at the election, subject to the election laws of the state, substantially as follows:

“Should the \_\_\_\_\_ of \_\_\_\_\_ become part of an emergency services authority?

Yes ( )

No ( )”

(3) If a majority of the electors voting on the question vote “yes”, the municipality shall proceed to become an incorporating municipality in the manner provided in section 2 or 3.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

#### **124.604a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 4a. A petition under section 4, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 167, Eff. Mar. 23, 1999.

#### **124.605 Contents of articles of incorporation.**

Sec. 5. Subject to the laws of this state, an authority's articles of incorporation shall state the name of the authority; the names of the incorporating municipalities; the purpose or purposes for which the authority is created; the powers, duties, and limitations of the authority and its officers, including ordinances necessary to support the authority as allowed under section 9(b); the method of selecting its governing body, officers, and employees; and the person or persons who are charged with the responsibility of causing the articles of incorporation to be published and printed copies to be certified and filed as provided in section 2 or who are charged with any other responsibility in connection with the incorporation of the authority.

**History:** 1988, Act 57, Eff. Apr. 1, 1988;—Am. 2006, Act 652, Imd. Eff. Jan. 5, 2007.

#### **124.606 Authority as body corporate; powers generally.**

Sec. 6. An authority is a body corporate, with power to sue or be sued in any court of this state. It possesses all the powers necessary to carry out the purposes of its incorporation, and those incident to those purposes. The enumeration of any powers in this act shall not be construed as a limitation upon an authority's general powers.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

#### **124.607 Acquisition of private property by authority.**

Sec. 7. An authority may acquire private property by purchase, lease, gift, devise, or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange, or lease property it has acquired. For the purpose of condemnation, it may proceed under Act No. 149 of the Public Acts of 1911, being sections 213.1 to 213.25 of the Michigan Compiled Laws, and the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

**Compiler's note:** In the middle of the second sentence, the section range "being sections 213.1 to 213.25" evidently should read "being sections 213.21 to 213.25."

#### **124.608 Contracts for provision of emergency services.**

Sec. 8. An authority may enter into a contract with any incorporating municipality for the provision of emergency services in the incorporating municipality for a period not exceeding 30 years. The emergency services may be established or funded in conjunction with any municipal emergency services, and any municipal emergency service may be delegated by contract to an authority. The charges specified in a contract shall be subject to increase by the authority, if necessary, in order to provide funds to meet its obligations. An authority may also enter into contracts with a city, village, or township that is not an incorporating municipality, for a period not exceeding 30 years except that the charges for services under a contract with a nonincorporating municipality may be greater than the charges to an incorporating municipality, and shall be subject to change from time to time without notice. However, existing contracts between the county sheriff's department and the municipalities shall remain in effect for the lifetime of those contracts.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

#### **124.609 Additional powers of authority.**

Sec. 9. An authority, in addition to its other powers and duties, may do all of the following:

- (a) Adopt bylaws and rules of administration to accomplish the purposes of this act.
- (b) Adopt ordinances that allow the authority to assess fees on owners or occupants of property who receive emergency services to cover the costs of providing emergency services under this act. An ordinance adopted under this subdivision shall be rescinded if, within 60 days from the date the ordinance is adopted, 1/3 or more of the municipalities affected by the ordinance vote to rescind the ordinance.
- (c) Apply for and accept grants, loans, or contributions from the federal government or any of its agencies, the state, or other public or private agencies to be used for any of the purposes of this act and to do any and all things within its express or implied powers necessary or desirable to secure that financial or other aid or cooperation in the carrying out of any of the purposes of this act.
- (d) Enter into any contracts with other entities not prohibited by law.
- (e) Investigate emergency services requirements, needs, and programs and engage, by contract, consultants as may be necessary and cooperate with the federal government, state, political subdivisions, and other authorities in those investigations.
- (f) Subject to section 10, hire employees, attorneys, accountants, and consultants as the authority considers necessary to carry out the purposes of the authority.

**History:** 1988, Act 57, Eff. Apr. 1, 1988;—Am. 2006, Act 652, Imd. Eff. Jan. 5, 2007.

#### **124.610 Employee rights; collective bargaining; labor agreements.**

Sec. 10. (1) Except as provided in subsection (2), employees of a municipal emergency service whose duties are transferred to an authority formed under this act shall be given comparable positions of employment with the emergency service established by the authority, and shall maintain their seniority status and all benefit rights of the position held in the municipal emergency response service before the transfer.

(2) If sufficient positions of comparable employment are not available for all employees at the time of transfer, a less senior employee who is not transferred to a comparable position shall be placed on layoff status with the authority's emergency service and shall be recalled to any position for which he or she may qualify, which may occur after a reasonable training period, or as soon as vacancies occur, or both. The layoff status, or any layoff list, shall not be mandatorily honored beyond 3 years from the date of layoff. The authority shall determine the number of positions necessary to perform any emergency service, and shall not be required to create or maintain unnecessary positions.

(3) An authority may bargain collectively and enter into agreements with labor organizations pursuant to Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws. When the duties of a municipal emergency service are transferred to an authority, the authority immediately shall assume and be bound by any existing labor agreements applicable to that municipal service for the remainder of the term of the labor agreement. Subject to the provision of subsection (2), the members and beneficiaries of any pension or retirement system or other benefits established by a municipal emergency service which is transferred to an authority shall have the same rights, privileges, benefits, obligations, and status with respect to the comparable systems established by the authority. A representative of the employees or any group of employees in a municipal emergency service who represent or are entitled to represent the employees or a group of employees of the municipal service, pursuant to Act No. 336 of the Public Acts of 1947, shall continue to represent the employee or group of employees after the employees are transferred to an authority's emergency service. This subsection does not limit the rights of employees, pursuant to

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applicable law, to assert that a bargaining representative protected by this subsection is no longer their representative.

(4) An employee who left the employ of the municipal emergency response service to enter the military service of the United States shall have the same employment rights as to the emergency service as they would have had under the municipal emergency response service pursuant to Act No. 263 of the Public Acts of 1951, being sections 35.351 to 35.356 of the Michigan Compiled Laws.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

#### **124.611 Withdrawal of incorporating municipality from authority.**

Sec. 11. (1) An incorporating municipality may withdraw from the authority of which it is a part by resolution of the municipality's legislative body approving the withdrawal.

(2) A municipality that withdraws from an authority shall continue to be subject to any tax levied in its jurisdiction under section 12 for the duration of the period of that tax as determined pursuant to section 12(3).

(3) Employees of an authority who perform emergency services in the jurisdiction of a municipality that withdraws from an authority shall be protected in relation to the municipality to the same extent as employees of an incorporating municipality are protected in relation to an authority under section 10.

(4) A municipality that withdraws from an authority shall remain liable for a proportion of the debts and liabilities of the authority incurred while the municipality was a part of the authority. The proportion of the authority's debts for which a municipality is liable under this subsection shall be determined by dividing the state equalized value of the real property in the municipality by the state equalized value of all real property in the authority at the time of the withdrawal.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

#### **124.612 Tax levy by authority.**

Sec. 12. (1) An authority may levy a tax on all of the taxable property within the limits of the authority for the purposes of this act.

(2) The tax authorized under subsection (1) shall not be levied without the approval of a majority of the registered electors residing in the authority affected and qualified to vote and voting on the tax at a general or special election. The election may be called by resolution of the board of the authority. The recording officer of the authority shall file a copy of the resolution of the board calling the election with the clerk of each incorporating municipality not less than 60 days before the date of the election. The resolution calling the election shall contain a statement of the proposition to be submitted to the electors. Each municipal clerk and all other municipal officials of an incorporating municipality shall undertake those steps to properly submit the proposition to the electors of the incorporating municipality at the election specified in the resolutions of the authority. The election shall be conducted and canvassed in accordance with the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws, except that if the authority is located in more than 1 county, the election shall be canvassed by the state board of canvassers. The results of the election shall be certified to the governing body of the authority promptly after the date of the election. Not more than 1 election may be held in an authority in a calendar year for approval of the tax authorized under subsection (1). If the election is a special election, the authority in which the election is held shall pay its share of the costs of the election.

(3) The taxes authorized by this section may be levied at a rate not to exceed 20 mills and for a period as determined by the authority in the resolution calling the election and as shall be set forth in the proposition submitted to the electors.

(4) The tax rate authorized by this section shall be levied and collected as are all ad valorem property taxes in the state, and the recording officer of the authority shall at the appropriate times certify to the proper tax assessing or collecting officers of each tax collecting municipality the amount of taxes to be levied and collected each year by each municipality. The authority shall determine on which tax roll, if there is more than 1, of each incorporating municipality that the taxes authorized by this section shall be collected. Each tax assessing and collecting officer and each county treasurer shall levy and collect the taxes certified by the authority and shall pay those taxes to the authority by the time provided in section 43 of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.43 of the Michigan Compiled Laws. The tax rate authorized by this section may be first levied by the authority as a part of the first tax roll of the appropriate municipalities occurring after the election described in subsection (2). The tax may be levied and collected on the December tax roll next following the date of election, if the tax is certified to the proper tax assessing officials not later than September 15 of the year in which the election is held.

(5) To the extent applicable and consistent with the requirements of this section, the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws,

shall apply to proceedings in relation to the assessment, spreading, and collection of taxes pursuant to this section. Additionally, in relation to the assessment, spreading, and collection of taxes pursuant to this section, the county treasurer shall have powers and duties similar to those prescribed by Act No. 206 of the Public Acts of 1893, for township supervisors, township clerks, and township treasurers. However, this section shall not be considered to transfer any authority over the assessment of property.

(6) A county treasurer collecting taxes pursuant to this section shall be bonded for tax collection in the same amount and in the same manner as a township treasurer would be for undertaking the duties prescribed by this section.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

#### **124.613 Tax levy by municipality.**

Sec. 13. Any incorporating municipality or a municipality otherwise granted taxing authority under state law may levy a tax on all of the taxable property within the limits of the political subdivision, and appropriate, grant, or contribute the proceeds of the tax to an authority for the purposes of this act or to provide sufficient money to fulfill its contractual obligation to the authority, which tax shall be within charter, statutory, and constitutional limitations.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

#### **124.614 Effective date.**

Sec. 14. This act shall take effect April 1, 1988.

**History:** 1988, Act 57, Eff. Apr. 1, 1988.

## METROPOLITAN COUNCILS ACT

### Act 292 of 1989

AN ACT to authorize certain local governmental units to create certain councils under certain circumstances; to prescribe the powers and duties of councils established under this act; and to authorize certain councils established under this act to levy a property tax.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 166, Eff. Mar. 23, 1999;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

*The People of the State of Michigan enact:*

#### **124.651 Short title.**

Sec. 1. This act shall be known and may be cited as the “metropolitan councils act”.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.653 Definitions.**

Sec. 3. As used in sections 5 through 35:

(a) “Articles” means a metropolitan area council's articles of incorporation provided for in section 5.

(b) “Council area” means the combined territory of the cities, villages, and townships participating in a metropolitan area council.

(c) “Largest” means, if used in reference to a county, the county having the greatest population residing in participating cities, villages, and townships. “Largest”, if used in reference to a participating local governmental unit, means the participating local governmental unit having the greatest population.

(d) “Local governmental unit” means a county, township, city, or village.

(e) “Metropolitan area” means a metropolitan statistical area, as defined as of the effective date of this act, by the United States department of commerce or a successor agency, with a population of less than 1,500,000 people.

(f) “Participating”, if used in reference to a local governmental unit, means 1 of the following:

(i) After formation of a metropolitan area council, a local governmental unit that has joined in the formation of the council or been added to the council pursuant to section 11 and that has not withdrawn pursuant to section 33.

(ii) Before formation of a metropolitan area council, a local governmental unit named in the articles of incorporation as a participating local governmental unit.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.655 Metropolitan area council; formation; council as public corporate body and authority; powers generally.**

Sec. 5. (1) A combination of 2 or more local governmental units in a metropolitan area may form a metropolitan area council by adopting articles of incorporation pursuant to the requirements of sections 7 and 9.

(2) A council is a public corporate body with power to sue and be sued in any court of the state.

(3) A council is an authority under section 6 of article IX of the state constitution of 1963.

(4) A council possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of a council, consistent with its articles.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.657 Metropolitan council; articles of incorporation generally.**

Sec. 7. (1) The articles of a council established under this act shall state the name of the council; the names of the participating local governmental units; the purposes for which the council is formed; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection and terms of office of delegates sitting on the council and of council officers; the manner in which participating local governmental units shall take part in the governance of the council; the general method of amending the articles; the method of amending the articles to reflect the addition of a local governmental unit, which shall require the adoption of a resolution by a vote of not less than 2/3 of the delegates serving on the council; and any other matters that the participating local governmental units consider advisable.

(2) The articles may require each participating local governmental unit to annually pay to the council an amount not to exceed 0.2 mills multiplied by the taxable value of all the taxable real and personal property

within that local governmental unit.

(3) Subject to subsection (4), the articles may authorize the council to levy on all the taxable real and personal property within the council area an ad valorem tax of not to exceed 0.5 mills of the taxable value of the taxable property. The levy of a tax under this subsection is subject to the requirements of sections 25 and 27.

(4) The articles of a metropolitan area council shall not authorize a tax levy under subsection (3) unless each delegate serving on the council holds an elected office in the local governmental unit that he or she represents on the council.

(5) As used in this section, "taxable value" means that value calculated under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.659 Articles of incorporation; adoption; amendment; publication; endorsement; filing.**

Sec. 9. (1) The articles of a metropolitan area council shall be adopted and may be amended by an affirmative vote of a majority of the members elected to and serving on the legislative body of each participating local governmental unit.

(2) Before the articles or amendments are adopted by any participating local governmental unit, the articles or amendments shall be published by the clerk of the largest participating local governmental unit at least once in a newspaper generally circulated within the participating cities, villages, and townships.

(3) The adoption of articles or amendments by the legislative body of a local governmental unit shall be evidenced by an endorsement on the articles or amendments by the clerk of the local governmental unit in a form substantially as follows:

These articles of incorporation (or amendments) were adopted by an affirmative vote of a majority of the members serving on the legislative body of \_\_\_\_\_, \_\_\_\_\_ at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_.

(4) Upon adoption of the articles or amendments, a printed copy of the articles or the amended articles shall be filed by the clerk of the largest participating local governmental unit with the secretary of state, the clerk of each county in which is located all or part of a participating city, village, or township, and the clerk of each participating city, village, or township.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.661 Addition of local governmental unit; requirements; filing amended articles.**

Sec. 11. (1) A local governmental unit may be added to the metropolitan area council after the council's incorporation upon satisfaction of all of the following requirements:

(a) A majority of the members elected to and serving on the legislative body of the local governmental unit vote to adopt a resolution stating that the local governmental unit desires to be added to the metropolitan area council and that it accepts the requirements of the articles as amended to reflect the addition of the local governmental unit.

(b) If there is a tax levied by the metropolitan area council under section 7 and the local governmental unit is a city, village, or township, the tax is authorized by a majority of the electors of that city, village, or township voting on the proposal.

(c) The articles are amended to reflect the addition of the local governmental unit.

(2) Upon addition of a local governmental unit to a metropolitan area council, a printed copy of the amended articles shall be filed as required by section 9 by the clerk of the local governmental unit added to the council.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.663 Referendum.**

Sec. 13. (1) Upon petition by not less than 5% of the registered electors residing in a nonparticipating local governmental unit requesting a referendum on the question of becoming a local governmental unit participating in a metropolitan area council, the clerk of the local governmental unit, upon verifying the required number of signatures on the petitions, shall submit the question of whether the local governmental unit should become a participant in a metropolitan area council to the vote of the electors of the local governmental unit at the next general election or special election called for that purpose, and conducted in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(2) The clerk of the local governmental unit shall prepare the question for the ballot to be used at the

election, subject to the Michigan election law, 1954 PA 116, 168.1 to 168.992, substantially as follows:

“Should the \_\_\_\_\_ of \_\_\_\_\_ become part of a metropolitan area council?

Yes ( )

No ( )”

(3) If a majority of the electors voting on the question vote “yes”, the local governmental unit shall proceed to become a participating local governmental unit in the manner provided in section 9 or 11, as applicable. If a majority of the electors voting on the question vote “no”, the local governmental unit shall not become a participating local governmental unit in a metropolitan area council for a period of not less than 1 year following the date of the vote.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.663a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 13a. A petition under section 13, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 166, Eff. Mar. 23, 1999.

#### **124.665 Election of chairperson and other officers; chairperson as principal executive officer; meetings; powers and duties; appointments to other agencies.**

Sec. 15. (1) A metropolitan area council shall have a chairperson. The chairperson shall act as principal executive officer and shall preside at the meetings of the council. Meeting times and places shall be fixed by the council and special meetings may be called by a majority of the delegates on the council or by the chairperson. The chairperson shall have such powers and duties as provided in the articles.

(2) In addition to the chairperson, a metropolitan area council shall have other officers as may be provided in the articles. The chairperson and other officers shall be elected by the council and shall be council delegates. However, a secretary and treasurer need not be council delegates.

(3) If provided in the articles, a metropolitan area council may appoint an executive director to serve at the council's pleasure as the principal administrator for the council. The director shall not be a delegate, shall be selected on the basis of training and experience, and shall have the powers and duties as provided in the council bylaws adopted pursuant to section 21.

(4) If specifically authorized by law, a metropolitan area council may make appointments to other governmental agencies.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.667 Per diem compensation; reimbursement for expenses.**

Sec. 17. (1) A metropolitan area council may pay each council delegate a per diem compensation for each council meeting attended and for other designated services performed by the council delegate. A metropolitan area council may reimburse each council delegate for reasonable expenses incurred in attending council meetings and performing services designated by the council.

(2) The budget of a metropolitan area council prepared pursuant to section 21 shall provide as a separate account anticipated expenditures for per diem compensation and expense reimbursement for the chairperson and other council delegates. Compensation or reimbursement shall be paid to the chairperson and other council delegates only if budgeted.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.669 Regulation of land and water; public improvements and services; operation; establishment of divisions, bureaus, and committees; expenses; data collection and storage; feasibility studies; applicability of other laws.**

Sec. 19. (1) The articles may authorize a metropolitan area council to propose standards, criteria, and suggested model ordinances to regulate the use and development of land and water within the council area.

(2) To the extent authorized in the articles, a metropolitan area council may plan, promote, finance, issue bonds for, acquire, improve, enlarge, extend, own, construct, replace, or contract for public improvements and services including, but not limited to, the following:

(a) Water and sewer public improvements and services.

(b) Solid waste collection, recycling, and disposal.

(c) Parks, museums, zoos, wildlife sanctuaries, and recreational facilities.



- (d) Special use facilities.
- (e) Ground and air transportation and facilities, including airports.
- (f) Economic development and planning for the metropolitan area council area.
- (g) Higher education public improvements and services.
- (h) Community foundations as that term is defined in section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261.

(3) A council established under this act shall not contract for the operation by another person of a public improvement or service acquired by the council pursuant to this act.

(4) A metropolitan area council may establish divisions, bureaus, and committees, including advisory committees. Members of advisory committees shall serve without compensation but may be reimbursed for their reasonable expenses as determined by the council.

(5) A metropolitan area council in cooperation with other agencies and departments of the state and the state universities may develop a center for data collection and storage to be used by the council and other governmental users and may furnish information on subjects such as population, land use, and governmental finances.

(6) A metropolitan area council may study the feasibility of programs relating but not limited to water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to the participating local governmental units and may institute demonstration projects in connection with the studies.

(7) Revenue bonds issued under this act are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(8) Bonds, other than revenue bonds described in subsection (7), issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998;—Am. 2002, Act 411, Imd. Eff. June 3, 2002.

#### **124.671 Powers and duties of metropolitan area council.**

Sec. 21. (1) A metropolitan area council may do 1 or more of the following:

- (a) Adopt bylaws for the administration of the council.
- (b) Acquire and hold, by purchase, lease, grant, gift, devise, land contract, installment purchase contract, bequest, condemnation, or other legal means, real and personal property within or without the participating cities, villages, and townships. The property may include franchises, easements, or rights of way on, under, or above any property. The council may pay for the property from, or pledge for the payment of the property, revenue of the council. A metropolitan area council shall not condemn public property.
- (c) Apply for and accept grants, loans, or contributions from the federal government or any of its agencies, this state, or other public or private agencies to be used for any of the purposes of this act.
- (d) Sell or lease property acquired for the purposes of this act but not needed for those purposes.
- (e) Contract with a participating local governmental unit for the provision of a service listed in section 19(2) in the participating local governmental unit for a period not exceeding 30 years. The service may be established or funded in conjunction with a service of a local governmental unit, and the provision of a service of a local governmental unit may be delegated to a council. A charge specified in a contract is subject to increase by the council, if necessary to provide funds to meet its obligations. A metropolitan area council may also enter into a contract with a nonparticipating local governmental unit for a period not exceeding 30 years, except that a charge for a service under a contract with a nonparticipating local governmental unit may be greater than a charge to a participating local governmental unit, and is subject to change from time to time without notice. A metropolitan area council's powers under this subdivision are subject to section 19(3).

(f) Hire employees, attorneys, accountants, and consultants.

(2) A council shall do all of the following:

- (a) Prepare budgets and appropriations acts in the manner required of local units under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.
- (b) If ending a fiscal year with a deficit, file a financial plan to correct the deficit in the same manner as provided in section 21 of the state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.673 Employee rights; collective bargaining; labor agreements; pension or retirement system.**

Sec. 23. (1) A public employee whose duties are transferred to a council established under this act shall be given a position of a comparable description with the council, and shall retain the seniority status and benefit

rights of the public employment position held before the transfer. An employee of a council is a “public employee” as defined in section 1 of 1947 PA 336, MCL 423.201.

(2) A council described in this act may bargain collectively and enter into agreements with labor organizations pursuant to 1947 PA 336, MCL 423.201 to 423.217. When powers or duties of a local governmental unit are transferred to a council, the council shall immediately assume and be bound by an existing labor agreement applicable to those powers or duties for the remainder of the term of the labor agreement. The members and beneficiaries of a pension or retirement system or other benefits established by a local governmental unit, the powers or duties of which are transferred to a council, shall have the same rights, privileges, benefits, obligations, and status with respect to the council. A representative of the employees or a group of employees in a local governmental unit who represents or is entitled to represent the employees or a group of employees of the local governmental unit, pursuant to 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employee or group of employees after the employees are transferred to a council. This subsection does not limit the rights of employees, pursuant to applicable law, to assert that a bargaining representative protected by this subsection is no longer their representative.

(3) An employee who left the employ of a local governmental unit to enter the military service of the United States shall have the same employment rights as to a council established under this act as that employee would have had with the local governmental unit pursuant to 1951 PA 263, MCL 35.351 to 35.356.

(4) An employee of a council established under this act who performs a service in the jurisdiction of a local governmental unit that withdraws from the council pursuant to section 33 shall be protected in relation to the local governmental unit to the same extent as an employee of a participating local governmental unit is protected in relation to a council under this section.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.675 Tax; manner of levy and collection.**

Sec. 25. (1) A tax authorized to be levied by a council under this act shall be levied and collected at the same time and in the same manner as provided by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(2) A council shall not levy a tax except upon the approval of a majority of the qualified and registered electors residing in the council area and voting collectively on the question.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.677 Tax election generally.**

Sec. 27. (1) A proposal for a tax authorized to be levied by a council under this act shall not be placed on the ballot unless the proposal is adopted by a resolution of the council and certified by the council not later than 70 days before the election to the county clerk of each county in which all or part of a participating city, village, or township is located for inclusion on the ballot. The proposal shall state the amount and duration of the millage and shall be certified for inclusion on the ballot at the next general election, the state primary immediately preceding the general election, or a special election at a proposed date not within 45 days of a state primary or a general election, as specified by the council's resolution. A proposed special election date shall be scheduled in compliance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(2) The county election commission shall provide ballots for an election for a tax proposal for each city, village, or township or part of a city, village, or township located within the county that is participating in a council under this act.

(3) Except as otherwise provided in subsections (4) and (5), an election for a tax shall be conducted by the city and township clerks and election officials of the cities and townships participating in a council under this act.

(4) If an election on a proposal for a tax is to be held in conjunction with a general election or state primary election and if a village participating in a council under this act is located within a nonparticipating township, the township clerk and election officials shall conduct the election. On the forty-fifth day preceding the election, the village clerk or other official maintaining a file of qualified and registered electors of the village shall provide to the township clerk a list containing the name, address, and birth date of each qualified and registered elector of the village. By the fifteenth day preceding the election, the village clerk or other official providing the list shall provide to the township clerk information updating the list as of the close of registration. Persons appearing on the list as updated are eligible to vote in the election by special ballot.

(5) If a tax is to be voted on at a special election not held in conjunction with a general election or state primary election and if a village participating in a council under this act is located within a nonparticipating township, the village clerk and election officials shall conduct the election.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998;—Am. 2003, Act 301, Eff. Jan. 1, 2005  
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**124.679 Tax election; notices; canvass; certification of results; limitations.**

Sec. 29. (1) If an election for a tax is to be held in conjunction with a general election or a state primary election immediately preceding a general election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the largest county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of each county in which all or part of a city, village, or township participating in a council under this act is located. If the county is not the largest county, the board of county canvassers shall certify the results of the election to the board of county canvassers of the largest county. The board of county canvassers of the largest county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the participating cities, villages, and townships in that county and the certified results of the board of county canvassers of every other county in which a city, village, or township participating in the council is located. The board of county canvassers of the largest county shall certify the results of the election to the council and issue certificates of election. If a majority of the votes cast on the question of a tax is in favor of the proposal, the tax levy is authorized. No more than 2 elections shall be held in a calendar year on the question of a tax.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

**124.681 Tax election; reimbursement of costs.**

Sec. 31. (1) A county clerk shall charge the council and the council shall reimburse the county for the actual costs the county incurs in an election for a tax proposal of a council established under this act.

(2) If a township, city, or village participating in a council under this act conducts an election for a tax, the clerk of that local governmental unit shall charge the council and the council shall reimburse the local governmental unit for the actual costs the local governmental unit incurs in conducting the election if the election is not held in conjunction with a regularly scheduled election in that local governmental unit.

(3) In addition to costs reimbursed pursuant to subsections (1) and (2), a local governmental unit shall charge the council and the council shall reimburse the local governmental unit for actual costs that the local governmental unit incurs and that are attributable to an election for a tax proposal.

(4) The actual costs that a county, township, city, or village incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

**124.683 Withdrawal from membership in council; conditions; unpaid obligations; evidence of withdrawal.**

Sec. 33. (1) Except as otherwise provided in subsection (2), a local governmental unit participating in a council under this act may withdraw from membership in the council if all of the following conditions are met:

(a) Adoption of a resolution by a majority of the members elected to and serving on the legislative body of the local governmental unit requesting withdrawal from membership.

(b) Payment or the provision for payment is made regarding any obligations of the local governmental unit to the council or its creditors.

(2) If, upon withdrawal of a local governmental unit, the local governmental unit has unpaid obligations to the council, a tax levied by the council under this act before withdrawal of the local governmental unit shall continue to be levied in the local governmental unit, to the extent and in an amount needed to satisfy the unpaid obligations, until the obligations are paid or the tax expires, whichever happens first. A local governmental unit that withdraws from a council shall continue to receive services from the council until the local governmental unit is no longer required to pay a tax levied by the council.

(3) Withdrawal of a local governmental unit from a council shall be evidenced by an amendment to the articles executed by the secretary or, if the council has no secretary, by the chairperson of the council and filed and published in the same manner as the original articles.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

**124.685 Conducting business at public meeting; availability of writings to public.**

Sec. 35. (1) The business that a council established under this act performs shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A writing prepared, owned, used, in the possession of, or retained by a council in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 1989, Act 292, Imd. Eff. Jan. 3, 1990;—Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.693 Definitions; MCL 124.693 to 124.713.**

Sec. 43. As used in sections 43 through 63:

- (a) “Articles” means a council's articles of incorporation provided for in section 45.
- (b) “Council” means a metropolitan region council established pursuant to this act.
- (c) “Council area” means the actual territory of the counties participating in the metropolitan region.
- (d) “Largest” means, if used in reference to a county, the county having the greatest population.
- (e) “Obscene” means material that meets the following criteria:
  - (i) When examined in its totality, the material appeals to a prurient interest.
  - (ii) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined by state law.
  - (iii) When examined in its totality, the material lacks serious literary, artistic, political, or scientific value.
- (f) “Participating”, if used in reference to a qualified county, means 1 of the following:
  - (i) After formation of a metropolitan region council, a qualified county that has joined in the formation of the council or been added to the council pursuant to section 51 and that has not withdrawn pursuant to section 63.
  - (ii) Before formation of a metropolitan region council, a qualified county named in the articles of incorporation as a participating qualified county.
- (g) “Qualified city” means a city that meets all of the following conditions:
  - (i) The city is located in a participating qualified county.
  - (ii) The city owns 2 or more regional cultural institutions.
  - (iii) The city has a population of not less than 700,000 persons according to the most recent federal decennial census.
- (h) “Qualified county” means a county that meets the following requirements:
  - (i) The county has a population of not less than 780,000 according to the most recent federal decennial census.
  - (ii) The county has a qualified city within its geographic boundaries, or is contiguous to a county with a qualified city.
- (i) “Regional cultural institution” means a structure, fixture, or activity provided by a tax exempt entity that has been in existence for at least 18 consecutive months before becoming eligible for funding under this chapter. “Regional cultural institution” may include a zoological institute; a science center, whether or not it is affiliated with a private educational institution; a public broadcast station as defined by section 397 of subpart E of part IV of title III of the communications act of 1934, 47 U.S.C. 397, whether or not the public broadcast station is affiliated with an institution of higher education; a museum, whether or not it is affiliated with a private educational institution; a historical center; a performing arts center; a visual or performance art instruction center affiliated with an independent institution of higher education in the arts; an orchestra; a chorus; a chorale; or an opera theater. “Regional cultural institution” does not include a professional sports arena or stadium; a labor organization; a political organization; a library; a public, private, or charter school; or an exhibition, performance, or presentation that is obscene.
- (j) “Tax exempt entity” means any of the following:
  - (i) An organization exempt from taxation under section 501(c) of the internal revenue code of 1986.
  - (ii) An entity or division owned by an organization described in subparagraph (i).
  - (iii) An entity owned by a township, city, village, community college, state university, or any other public body that is not a public school, charter school, or public school academy.

**History:** Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998.

#### **124.695 Metropolitan region council; formation; adoption of articles of incorporation; conditions; establishment of metropolitan region council board; appointment of representatives; powers and duties.**

Sec. 45. (1) Two or more qualified counties in combination with one another and with 1 or more qualified cities may form a metropolitan region council by adopting articles of incorporation in accordance with sections 47 and 49, if the county commission of each qualified county seeking to participate, and the city council of each qualified city seeking to participate, does the following:

- (a) Adopts a resolution declaring an intent to participate in the formation of that authority.

(b) Adopts articles of incorporation in accordance with sections 47 and 49.

(2) Upon adoption of the resolutions described in subsection (1)(a), the participating qualified counties and qualified cities of a metropolitan region council shall establish a metropolitan region council board. The chief executive officer of each participating qualified county and qualified city shall appoint 3 representatives to the board, with the advice and consent of the legislative body of the county or city. However, if a participating qualified county has a population greater than 2,000,000 persons, a representative shall be appointed by each of the 3 largest geographical conferences established in the county before January 1, 1999 under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(3) A metropolitan region council is a public corporate body with power to sue and be sued in any court of the state.

(4) A metropolitan region council is an authority under section 6 of article IX of the state constitution of 1963.

(5) A metropolitan region council possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of a council, consistent with its articles.

**History:** Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998.

#### **124.697 Articles of metropolitan region council; provisions.**

Sec. 47. (1) A metropolitan region council's articles shall state the name of the council; the names of the participating counties and cities; the purposes for which the council is formed; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection, and terms of office of delegates sitting on the council and of council officers; the manner in which participating counties and cities shall take part in the governance of the council; the general method of amending the articles; any matter that the participating counties and cities consider advisable; and both of the following, which shall require the adoption of a resolution by a vote of not less than 2/3 of the delegates serving on the council, including at least 1 delegate from each participating qualified county and qualified city:

(a) The method of amending the articles to reflect the addition of a qualified county or qualified city.

(b) The method of amending the articles to reflect a change in the distribution of funds among regional cultural institutions.

(2) Subject to subsection (3) and the requirements of sections 25 and 27, the articles may authorize the metropolitan region council to act in accordance with section 7(3).

(3) The articles of a metropolitan region council shall specify that, as a condition of proceeding under subsection (2), the county commission of each qualified county participating in the council shall place on a countywide ballot the proposal described in section 27(1) at the regularly scheduled county primary or general election that follows the determination to proceed under section 27(3).

(4) The articles of a metropolitan region council shall specify the maximum amount or percentage of revenues received under this act that the council may authorize to be expended annually for administrative costs incurred under this act. The articles shall also specify that not more than 3% of annual revenues received under this act may be expended annually for those administrative costs. Additionally, the articles shall authorize the council to provide funding, supplemental to funding received from other sources, for regional cultural institutions located within the council area that the council serves. However, a council shall not expend money collected under this section unless the specific expenditure is included in the council's annual budget, expressly authorized in the council's articles, or unless the expenditure is approved by an affirmative vote of a majority of the council's delegates.

**History:** Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998.

#### **124.699 Participating qualified county; receipt of revenues; publication and adoption of articles or amendments.**

Sec. 49. (1) Except as provided in subsection (2), the articles of a metropolitan region council shall authorize each participating qualified county to receive up to 1/3 of any net revenues collected within that participating qualified county under section 47. The amount of up to 1/3 of net revenues received shall be expended to fund those cultural and recreational programs and facilities that are not primarily designed or used for professional sports.

(2) A participating qualified county with a population of more than 2,000,000 persons according to the most recent federal decennial census shall not receive any net revenues collected within that county under section 47(2). Instead, 1/3 of the net revenues collected in each city, village, or portion of a township that is not incorporated as a city or village shall be retained by that city, village, or portion of a township, and those net revenues shall be expended by the affected cities, villages, and portions of townships to fund only cultural



and recreational programs and facilities that are not primarily designed or used for professional sports.

(3) Before the articles or amendments are adopted by any participating city, the articles or amendments shall be published by the clerk of the participating city at least once in a newspaper generally circulated within the participating city. Before the articles or amendments are adopted by participating qualified counties, the articles or amendments shall be published by the clerk of each participating qualified county at least once in a newspaper generally circulated within that county.

(4) The adoption of articles or amendments by the legislative body of a participating county or city shall be evidenced by an endorsement on the articles or amendments by the clerk of the participating county or city in a form substantially as follows:

These articles of incorporation (or amendments) were adopted by an affirmative vote of a majority of the members serving on the legislative body of \_\_\_\_\_, \_\_\_\_\_ at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_.

(5) Upon adoption of the articles or amendments by a metropolitan region council, the clerk of each participating county shall file in that county and with the secretary of state a printed copy of the adopted or amended articles.

**History:** Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998.

#### **124.701 Addition of qualified county or city to metropolitan region council; filing amended articles.**

Sec. 51. (1) A qualified county or qualified city may be added to the metropolitan region council after the council's incorporation upon satisfaction of all of the following requirements:

(a) A majority of the members elected to and serving on the legislative body of the qualified county or qualified city vote to adopt a resolution stating that the qualified county or qualified city desires to be added to the metropolitan region council and that it accepts the requirements of the articles as amended to reflect the addition of the qualified county or qualified city.

(b) If a qualified city is proposing to be added to a metropolitan region council that is exercising its authority under section 47(2), that exercise of authority is authorized by a majority of the electors of the city voting on the proposal at the regularly scheduled county primary or general election that follows adoption of the resolution described in subdivision (a). If a qualified county is proposing to be added to a metropolitan region council that is exercising its authority under section 47(2), that exercise of authority is authorized by a majority of the electors of the qualified county voting on the proposal at the regularly scheduled county primary or general election that follows adoption of the resolution described in subdivision (a).

(c) The articles are amended to reflect the addition of the qualified county or qualified city.

(2) Upon addition of a qualified county or qualified city to a metropolitan region council, a printed copy of the amended articles shall be filed as required by section 9 by the clerk of the qualified county or qualified city added to the council.

**History:** Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998.

#### **124.709 Regional cultural institutions and local recreation and cultural facilities; development or enhancement.**

Sec. 59. A metropolitan region council may be established solely to develop or enhance regional cultural institutions and local recreation and cultural facilities, other than facilities that are primarily designed or used for professional sports, within the geographic boundaries of qualified counties participating in the council.

**History:** Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998.

#### **124.711 Metropolitan region council; powers and duties.**

Sec. 61. (1) A metropolitan region council may do 1 or more of the following:

(a) Adopt bylaws for the administration of the council.

(b) Acquire and hold, by purchase, lease, grant, gift, devise, land contract, installment purchase contract, bequest, condemnation, or other legal means, real and personal property within or without the participating qualified counties and qualified cities. The property may include franchises, easements, or rights-of-way on, under, or above any property. The metropolitan region council may pay for the property from, or pledge for the payment of the property, revenue of the council. A council shall not condemn public property.

(c) Apply for and accept grants, loans, or contributions from the federal government or any of its agencies, this state, or other public or private agencies to be used for any of the purposes of this act.

(d) Sell or lease property acquired for the purposes of this act but not needed for those purposes.

- (e) Hire employees, attorneys, accountants, and consultants.
- (2) A metropolitan region council shall do all of the following:
  - (a) Prepare budgets and appropriations acts in the manner required of local units under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.
  - (b) If ending a fiscal year with a deficit, file a financial plan to correct the deficit in the same manner as provided in section 21 of the state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

**History:** Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998.

**124.713 Withdrawal of participating qualified county or city; conditions; unpaid obligations; evidence.**

Sec. 63. (1) Except as otherwise provided in subsection (2), a participating qualified county or qualified city may withdraw from membership in the metropolitan region council if all of the following conditions are met:

- (a) Adoption of a resolution by a majority of the members elected to and serving on the legislative body of the qualified county or qualified city requesting withdrawal from membership.

- (b) Payment or the provision for payment is made regarding any obligations of the qualified county or qualified city to the metropolitan region council or its creditors.

- (2) If, upon withdrawal, a qualified county or qualified city has unpaid obligations to the metropolitan region council that arose under section 47(2) before withdrawal of the qualified county or qualified city, the obligations shall continue to be imposed in the qualified county or qualified city, to the extent and in an amount needed to satisfy the unpaid obligations, until the obligations are paid or expire, whichever happens first. A qualified county or qualified city that withdraws from a metropolitan region council shall continue to receive services from the council until that qualified county or qualified city is no longer required to satisfy an obligation imposed by the council under section 47(2).

- (3) Withdrawal of a qualified county or qualified city from a metropolitan region council shall be evidenced by an amendment to the articles executed by the secretary or, if the council has no secretary, by the chairperson of the council and filed and published in the same manner as the original articles.

**History:** Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998.

**124.715 Definitions; MCL 124.717 to 124.729.**

Sec. 65. As used in sections 67 through 79:

- (a) "Articles" means a metropolitan arts council's articles of incorporation provided for in section 69.

- (b) "Council" means a metropolitan arts council established under section 67.

- (c) "Council area" means the actual territory of a metropolitan arts council.

- (d) "Facilities and programs" means structures, fixtures, and activities provided by a tax exempt entity that has been in existence for at least 18 consecutive months before becoming eligible for funding under sections 67 through 79. Facilities and programs may include a public broadcast station as defined by section 397 of subpart E of part IV of title III of the communications act of 1934, 47 U.S.C. 397, whether or not the public broadcast station is affiliated with an institution of higher education; a museum or historical center; a performing arts center; an orchestra; chorus; chorale; opera theater; and a ballet, dance, or theater company. Facilities and programs do not include professional sports arenas or stadiums, labor organizations, political organizations, libraries, or public, private, or charter schools.

- (e) "Metropolitan district" means either of the following:

- (i) A county with not less than 2 state public universities.

- (ii) A county with a population of not more than 100,000 individuals and a boundary contiguous to a county with not less than 2 state public universities.

- (f) "Tax exempt entity" means any of the following:

- (i) An organization exempt from taxation under section 501(c) of the internal revenue code of 1986.

- (ii) An entity or division owned by an organization described in subparagraph (i).

- (iii) An entity owned by a township, city, village, community college, state university, or any other public body that is not a public school, charter school, or public school academy.

**History:** Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

**124.717 Metropolitan district; formation of metropolitan arts council; conditions; establishment of metropolitan arts council board; powers and duties.**

Sec. 67. (1) A metropolitan district may form a metropolitan arts council if the district's county commission does the following:

- (a) Adopts a resolution declaring an intent to participate in the formation of that council.

(b) Adopts articles of incorporation in accordance with sections 69 and 71.

(2) Upon adoption of the resolutions described in subsection (1), the metropolitan district shall establish a metropolitan arts council board. The board shall consist of not more than 12 members, each of whom is from a county commission district different from the county commission district of all other members.

(3) A metropolitan arts council is a public corporate body with power to sue and be sued in any court of the state.

(4) A metropolitan arts council is an authority under section 6 of article IX of the state constitution of 1963.

(5) A metropolitan arts council possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of a metropolitan arts council, consistent with its articles.

**History:** Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.719 Metropolitan arts council; establishment; purpose; articles.**

Sec. 69. (1) A metropolitan arts council may be established solely to develop or enhance cultural institutions and facilities within the geographic boundaries of the council. A metropolitan arts council's articles shall state the name of the council; the purposes for which the council is formed; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection and terms of office of delegates sitting on the council and of council officers; and the general method of amending the articles.

(2) The articles may authorize the metropolitan arts council to act in accordance with section 7(3).

**History:** Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.721 Metropolitan arts council; adoption or amendment of articles.**

Sec. 71. (1) The articles of a metropolitan arts council shall be adopted and may be amended by an affirmative vote of a majority of the county commissioners.

(2) Before the articles or amendments are adopted by the county commission, the articles or amendments shall be published by the county clerk. The clerk shall publish the articles or amendments at least once in a newspaper generally circulated within the county.

(3) The adoption of articles or amendments by the county commission shall be evidenced by an endorsement on the articles or amendments by the county clerk in a form substantially as follows:

These articles of incorporation (or amendments) were adopted by an affirmative vote of a majority of the members serving on the county commission of \_\_\_\_\_, \_\_\_\_\_ at a meeting duly held on the \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_.

(4) Upon adoption of the articles or amendments, a printed copy of the articles or the amended articles shall be filed by the clerk of the county and with the secretary of state.

**History:** Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.723 Metropolitan arts council; chairperson; officers; administrator; other appointments.**

Sec. 73. (1) A metropolitan arts council shall have a chairperson. The chairperson shall act as principal executive officer and shall preside at the meetings of the council. Meeting times and places shall be fixed by the council and special meetings may be called by a majority of the delegates on the council or by the chairperson. The chairperson shall have such powers and duties as provided in the articles.

(2) In addition to the chairperson, a metropolitan arts council shall have other officers as may be provided in the articles. The chairperson and other officers shall be elected by the council and shall be council delegates. However, a secretary and treasurer need not be council delegates.

(3) If provided in the articles, a metropolitan arts council may appoint an executive director to serve at the council's pleasure as the principal administrator for the council. The director shall not be a delegate, shall be selected on the basis of training and experience, and shall have the powers and duties as provided in the council bylaws adopted pursuant to section 79.

(4) If specifically authorized by law, a council for a metropolitan region may make appointments to other governmental agencies.

**History:** Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

#### **124.725 Membership; compensation; expenses; annual budget.**

Sec. 75. (1) Metropolitan arts council members shall serve without compensation but upon approval of a majority of delegates serving may be reimbursed for actual and necessary expenses incurred in the performance of the council's official duties.

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(2) A metropolitan arts council shall prepare annually a budget that provides as a separate account anticipated expenditures for per diem compensation and expense reimbursement for the chairperson and other council delegates. Compensation or reimbursement shall be paid to the chairperson and other council delegates only if budgeted.

**History:** Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

**124.727 Annual expenditure for administrative costs; establishment of divisions, bureaus, and committees.**

Sec. 77. (1) A metropolitan arts council's articles shall specify the maximum amount or percentage of revenues received under this act that the council may authorize to be expended annually for administrative costs incurred under this act. The articles may authorize a local arts council within the metropolitan council area to administer this act or portions of this act. Additionally, the articles shall authorize that council to provide funding, supplemental to funding received from other sources, for cultural facilities and programs located within the metropolitan district that the council serves. However, a metropolitan arts council shall not expend money collected under section 69 unless the specific expenditure is included in the council's annual budget, expressly authorized in the council's articles, or unless the expenditure is approved by an affirmative vote of a majority of the council's delegates.

(2) A metropolitan arts council may establish divisions, bureaus, and committees, including advisory committees. Members of advisory committees shall serve without compensation but may be reimbursed for their reasonable expenses as determined by the council.

**History:** Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

**124.729 Bylaws.**

Sec. 79. A metropolitan arts council may adopt bylaws for the administration of the council.

**History:** Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998.

## **LAND BANK FAST TRACK ACT**

### **Act 258 of 2003**

AN ACT to provide for the creation of land bank fast track authorities to assist governmental entities in the assembly and clearance of title to property in a coordinated manner; to facilitate the use and development of certain property; to promote economic growth; to prescribe the powers and duties of certain authorities; to provide for the creation and appointment of boards to govern land bank fast track authorities and to prescribe their powers and duties; to authorize the acquisition, maintenance, and disposal of interests in real and personal property; to authorize the conveyance of certain properties to a land bank fast track authority; to authorize the enforcement of tax liens and the clearing or quieting of title by a land bank fast track authority; to provide for the distribution and use of revenues collected or received by a land bank fast track authority; to prescribe powers and duties of certain public entities and state and local officers and agencies; to authorize the transfer and acceptance of property in lieu of taxes and the release of tax liens; to exempt property, income, and operations of a land bank fast track authority from tax; to extend protections against certain liabilities to a land bank fast track authority; and to repeal acts and parts of acts.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

*The People of the State of Michigan enact:*

### CHAPTER 1

#### GENERAL PROVISIONS

#### **124.751 Short title.**

Sec. 1. This act shall be known and may be cited as the “land bank fast track act”.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.752 Legislative findings.**

Sec. 2. The legislature finds that there exists in this state a continuing need to strengthen and revitalize the economy of this state and local units of government in this state and that it is in the best interests of this state and local units of government in this state to assemble or dispose of public property, including tax reverted property, in a coordinated manner to foster the development of that property and to promote economic growth in this state and local units of government in this state. It is declared to be a valid public purpose for a land bank fast track authority created under this act to acquire, assemble, dispose of, and quiet title to property under this act. It is further declared to be a valid public purpose for a land bank fast track authority created under this act to provide for the financing of the acquisition, assembly, disposition, and quieting of title to property, and for a land bank fast track authority to exercise other powers granted to a land bank fast track authority under this act. The legislature finds that a land bank fast track authority created under this act and powers conferred by this act constitute a necessary program and serve a necessary public purpose.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.753 Definitions.**

Sec. 3. As used in this act:

(a) “Authority” means a land bank fast track authority created under section 15, section 23(4), or section 23(5).

(b) “Authority board” means the board of directors of the state authority appointed under section 16.

(c) “Casino” means a casino regulated by this state under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, or a casino at which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, and all property associated or affiliated with the operation of the casino, including, but not limited to, a parking lot, hotel, motel, or retail store.

(d) “County authority” means a county land bank fast track authority created by a county foreclosing governmental unit under section 23(4).

(e) “Department” means the department of labor and economic growth, a principal department of state government created by section 225 of the executive organization act of 1965, 1965 PA 380, MCL 16.325, and renamed by Executive Order No. 1996-2, MCL 445.2001, and by Executive Order No. 2003-18.

(f) “Foreclosing governmental unit” means that term as defined in section 78 of the general property tax act, 1893 PA 206, MCL 211.78.

(g) “Fund” means the land bank fast track fund created in section 18.

(h) “Intergovernmental agreement” means a contractual agreement between 1 or more governmental



agencies, including, but not limited to, an interlocal agreement to jointly exercise any power, privilege, or authority that the agencies share in common and that each might exercise separately under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(i) "Local authority" means a local land bank fast track authority created by a qualified city under section 23(5).

(j) "Local unit of government" means a city, village, township, county, or any intergovernmental, metropolitan, or local department, agency, or authority, or other local political subdivision.

(k) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, as amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this act, those duties may be exercised by the Michigan strategic fund.

(l) "Michigan state housing development authority" means the authority created under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(m) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(n) "Qualified city" means a city that contains a first class school district and includes any department or agency of the city.

(o) "State administrative board" means the board created under 1921 PA 2, MCL 17.1 to 17.3, that exercises general supervisory control over the functions and activities of all administrative departments, boards, commissioners, and officers of the state and of all state institutions.

(p) "State authority" means the land bank fast track authority created under section 15.

(q) "Tax reverted property" means property that meets 1 or more of the following criteria:

(i) The property was conveyed to this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, and subsequently was not sold at a public auction under section 131 of the general property tax act, 1893 PA 206, MCL 211.131, except property described in section 131 of the general property tax act, 1893 PA 206, MCL 211.131, that is withheld from sale by the director of the department of natural resources as authorized in that section.

(ii) The property was conveyed to this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, and subsequently was either redeemed by a local unit of government or transferred to a local unit of government under section 2101 or 2102 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2101 and 324.2102, or under former section 461 of 1909 PA 223 except property transferred to a local unit of government that is subject to a reverter clause under which the property reverts to this state upon transfer by the local unit of government.

(iii) The property was subject to forfeiture, foreclosure, and sale for the collection of delinquent taxes as provided in sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, and both of the following apply:

(A) Title to the property vested in a foreclosing governmental unit under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k.

(B) The property was offered for sale at an auction but not sold under section 78m of the general property tax act, 1893 PA 206, MCL 211.78m.

(iv) The property was obtained by or transferred to a local unit of government under section 78m of the general property tax act, 1893 PA 206, MCL 211.78m.

(v) Pursuant to the requirements of a city charter, the property was deeded to or foreclosed by the city or a department or agency of the city for unpaid delinquent real property taxes.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.754 Powers.**

Sec. 4. (1) Except as otherwise provided in this act, an authority may do all things necessary or convenient to implement the purposes, objectives, and provisions of this act, and the purposes, objectives, and powers delegated to the board of directors of an authority by other laws or executive orders, including, but not limited to, all of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Sue and be sued in its own name and plead and be impleaded, including, but not limited to, defending the authority in an action to clear title to property conveyed by the authority.

(c) Borrow money and issue bonds and notes according to the provisions of this act.

(d) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, interlocal agreements under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, for the joint exercise of powers under this act.

(e) Solicit and accept gifts, grants, labor, loans, and other aid from any person, or the federal government, this state, or a political subdivision of this state or any agency of the federal government, this state, a political subdivision of this state, or an intergovernmental entity created under the laws of this state or participate in any other way in a program of the federal government, this state, a political subdivision of this state, or an intergovernmental entity created under the laws of this state.

(f) Procure insurance against loss in connection with the property, assets, or activities of the authority.

(g) Invest money of the authority, at the discretion of the board of directors of the authority, in instruments, obligations, securities, or property determined proper by the board of directors of the authority, and name and use depositories for its money.

(h) Employ legal and technical experts, other officers, agents, or employees, permanent or temporary, paid from the funds of the authority. The authority shall determine the qualifications, duties, and compensation of those it employs. The board of directors of an authority may delegate to 1 or more members, officers, agents, or employees any powers or duties it considers proper. Members of the board of directors of an authority shall serve without compensation but shall be reimbursed for actual and necessary expenses subject to available appropriations.

(i) Contract for goods and services and engage personnel as necessary and engage the services of private consultants, managers, legal counsel, engineers, accountants, and auditors for rendering professional financial assistance and advice payable out of any money of the authority.

(j) Study, develop, and prepare the reports or plans the authority considers necessary to assist it in the exercise of its powers under this act and to monitor and evaluate progress under this act.

(k) Enter into contracts for the management of, the collection of rent from, or the sale of real property held by an authority.

(l) Do all other things necessary or convenient to achieve the objectives and purposes of the authority or other laws that relate to the purposes and responsibility of the authority.

(2) The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority. The powers granted under this act are in addition to those powers granted by any other statute or charter.

(3) An authority, in its discretion, may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the authority.

(4) If an authority holds a tax deed to abandoned property, the authority may quiet title to the property under section 79a of the general property tax act, 1893 PA 206, MCL 211.79a.

(5) The property of an authority and its income and operations are exempt from all taxation by this state or any of its political subdivisions.

(6) An authority shall not assist or expend any funds for, or related to, the development of a casino.

(7) An authority shall not levy any tax or special assessment.

(8) An authority shall not exercise the power of eminent domain or condemn property.

(9) An authority shall adopt a code of ethics for its directors, officers, and employees.

(10) An authority shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The governing body of an authority shall require that any member of the governing body with a direct or indirect interest in any matter before the authority disclose the member's interest to the governing body before the board takes any action on the matter.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.755 Acquisition of property; accepting deed in lieu of foreclosure or sale; release of tax lien.**

Sec. 5. (1) Except as provided in section 4(8), an authority may acquire by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the authority considers proper, real or personal property, or rights or interests in real or personal property.

(2) Real property acquired by an authority by purchase may be by purchase contract, lease purchase agreement, installment sales contract, land contract, or otherwise, except as provided in section 4(8). The authority may acquire real property or rights or interests in real property for any purpose the authority considers necessary to carry out the purposes of this act, including, but not limited to, 1 or more of the following purposes:

(a) The use or development of property the authority has otherwise acquired.

(b) To facilitate the assembly of property for sale or lease to any other public or private person, including, but not limited to, a nonprofit or for profit corporation.

(c) To protect or prevent the extinguishing of any lien, including a tax lien, held by the authority or imposed upon property held by the authority.

(3) An authority may also acquire by purchase, on terms and conditions and in a manner the authority considers proper, property or rights or interest in property from 1 or more of the following sources:

(a) The department of natural resources under section 2101 or 2102 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2101 and 324.2102.

(b) A foreclosing governmental unit under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(c) The Michigan state housing development authority under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(4) An authority may hold and own in its name any property acquired by it or conveyed to it by this state, a foreclosing governmental unit, a local unit of government, an intergovernmental entity created under the laws of this state, or any other public or private person, including, but not limited to, tax reverted property and property with or without clear title.

(5) All deeds, mortgages, contracts, leases, purchases, or other agreements regarding property of an authority, including agreements to acquire or dispose of real property, may be approved by and executed in the name of the authority.

(6) A foreclosing governmental unit may not transfer property subject to forfeiture, foreclosure, and sale under sections 78 to 78p of the general property tax act, 1893 PA 206, MCL 211.78 to 211.78p, until after the property has been offered for sale or other transfer under section 78m of the general property tax act, 1893 PA 206, MCL 211.78m, and the foreclosing governmental unit has retained possession of the property under section 78m(7) of the general property tax act, 1893 PA 206, MCL 211.78m.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.756 Preservation of property value.**

Sec. 6. (1) An authority may, without the approval of a local unit of government in which property held by the authority is located, control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the property it holds or owns. An authority may take or perform the following with respect to property held or owned by the authority:

(a) Grant or acquire a license, easement, or option with respect to property as the authority determines is reasonably necessary to achieve the purposes of this act.

(b) Fix, charge, and collect rents, fees, and charges for use of property under the control of the authority or for services provided by the authority.

(c) Pay any tax or special assessment due on property acquired or owned by the authority.

(d) Take any action, provide any notice, or institute any proceeding required to clear or quiet title to property held by the authority in order to establish ownership by and vest title to property in the authority, including, but not limited to, an expedited quiet title and foreclosure action under section 9.

(e) Remediate environmental contamination on any property held by the authority.

(2) An authority shall be made a party to and shall defend any action or proceeding concerning title claims against property held by the authority.

(3) Subject to subsection (4), an authority may accept from a person with an interest in a parcel of tax delinquent property or tax reverted property a deed conveying that person's interest in the property in lieu of the foreclosure or sale of the property for delinquent taxes, penalties, and interest levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or delinquent specific taxes levied under another law of this state against the property by a local unit of government or other taxing jurisdiction.

(4) An authority may not accept under subsection (3) a deed in lieu of foreclosure or sale of the tax lien attributable to taxes levied by a local unit of government or other taxing jurisdiction without the written approval of all taxing jurisdictions and the foreclosing governmental unit that would be affected. Upon approval of the affected taxing jurisdictions and the foreclosing governmental unit, all of the unpaid general ad valorem taxes and specific taxes levied on the property, whether recorded or not, shall be extinguished. The authority shall record proof of the acceptance by the affected taxing jurisdictions under this subsection and the deed in lieu of foreclosure with the register of deeds for the county in which the property is located.

(5) Except as provided in subsection (4), conveyance of property by deed in lieu of foreclosure under this section shall not affect or impair any other lien against that property or any existing recorded or unrecorded interest in that property, including, but not limited to, future installments of special assessments, liens

recorded by this state, or restrictions imposed under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, easements or rights-of-way, private deed restrictions, security interests and mortgages, or tax liens of other taxing jurisdictions or a foreclosing governmental unit that does not consent to a release of their liens.

(6) A tax lien against property held by or under the control of an authority may be released at any time by 1 or more of the following:

(a) The governing body of a local unit of government with respect to a lien held by the local unit of government.

(b) The governing body of any other taxing jurisdiction other than this state with respect to a lien held by the taxing jurisdiction.

(c) A foreclosing governmental unit with respect to a tax lien or right to collect a tax held by the foreclosing governmental unit.

(d) The state treasurer with respect to a tax lien securing the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.757 Disposition of property by authority; inventory and classification of property; title status and suitability for use; recording property transfer.**

Sec. 7. (1) Except as an authority otherwise agrees by intergovernmental agreement or otherwise, on terms and conditions, and in a manner and for an amount of consideration an authority considers proper, fair, and valuable, including for no monetary consideration, the authority may convey, sell, transfer, exchange, lease as lessor, or otherwise dispose of property or rights or interests in property in which the authority holds a legal interest to any public or private person for value determined by the authority. If the department of environmental quality determines that conditions on a property transferred to an authority under section 78m(15) of the general property tax act, 1893 PA 206, MCL 211.78m, represent an acute threat to public health, safety, and welfare, or to the environment, the authority shall not convey, sell, transfer, exchange, lease, or otherwise dispose of the property until after a determination by the department of environmental quality that the acute threat has been eliminated and that conveyance, sale, transfer, exchange, lease, or other disposal of the property by the authority will not interfere with any response activities by the department. The transfer and use of property under this section and the exercise by the authority of powers and duties under this act shall be considered a necessary public purpose and for the benefit of the public.

(2) All property held by an authority shall be inventoried and classified by the authority according to title status and suitability for use.

(3) A document, including, but not limited to, a deed, evidencing the transfer under this act of 1 or more parcels of property to an authority by this state or a political subdivision of this state may be recorded with the register of deeds office in the county in which the property is located without the payment of a fee.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

**Compiler's note:** For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

#### **124.758 Receipt of tax, penalty, or interest payments; return to local tax collecting unit; retention of proceeds.**

Sec. 8. (1) Money received by an authority as payment of taxes, penalties, or interest, or from the redemption or sale of property subject to a tax lien of any taxing unit shall be returned to the local tax collecting unit in which the property is located for distribution on a pro rata basis to the appropriate taxing units in an amount equal to delinquent taxes, penalties, and interest owed on the property, if any.

(2) Except as otherwise provided in this act, as required by other law, as required under the provisions of a deed, or as an authority otherwise agrees, any proceeds received by the authority may be retained by the authority for the purposes of this act.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.759 Expedited quiet title and foreclosure action; procedure.**

Sec. 9. (1) An authority may initiate an expedited quiet title and foreclosure action under this section to quiet title to real property held by the authority or interests in tax reverted property held by the authority by recording with the register of deeds in the county in which the property subject to expedited quiet title and foreclosure is located a notice of pending expedited quiet title and foreclosure action in a form prescribed by the department of treasury. The notice shall include a legal description of the property, the street address of the property if available, the name, address, and telephone number of the authority, a statement that the

property is subject to expedited quiet title proceedings and foreclosure under this act, and a statement that any legal interests in the property may be extinguished by a circuit court order vesting title to the property in the authority. If a notice is recorded in error, the authority may correct the error by recording a certificate of correction with the register of deeds. A notice or certificate under this subsection need not be notarized and may be authenticated by a digital signature or other electronic means. Property is not subject to an expedited quiet title and foreclosure action under this section if the property was forfeited under section 78g of the general property tax act, 1893 PA 206, MCL 211.78g, and remains subject to foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k. If an authority has reason to believe that a property subject to an expedited quiet title and foreclosure action under this section may be the site of environmental contamination, the authority shall provide the department of environmental quality with any information in the possession of the authority that suggests the property may be the site of environmental contamination.

(2) After recording the notice under subsection (1), an authority shall initiate a search of records identified in this subsection to identify the owners of a property interest in the property who are entitled to notice of the quiet title and foreclosure hearing under this section. The authority may enter into a contract with or may request from 1 or more authorized representatives a title search or other title product to identify the owners of a property interest in the property as required under this subsection or to perform the other functions set forth in this section required for the quieting of title to property under this act. The owner of a property interest is entitled to notice under this section if that owner's interest was identifiable by reference to any of the following sources before the date that the authority records the notice under subsection (1):

- (a) Land title records in the office of the county register of deeds.
- (b) Tax records in the office of the county treasurer.
- (c) Tax records in the office of the local assessor.
- (d) Tax records in the office of the local treasurer.

(3) An authority may file a single petition with the clerk of the circuit court in which property subject to expedited foreclosure under this section is located listing all property subject to expedited foreclosure by the authority and for which the authority seeks to quiet title. If available to the authority, the list of properties shall include a legal description of, a tax parcel identification number for, and the street address of each parcel of property. The petition shall seek a judgment in favor of the authority against each property listed and shall include a date, within 90 days, on which the authority requests a hearing on the petition. The petition shall request that a judgment be entered vesting absolute title in the authority, without right of redemption for each parcel of property listed, as provided in this section. Prior to the entry of judgment under this section, the authority may request the court to remove property erroneously included in the petition, or any tax delinquent properties redeemed prior to the hearing.

(4) The clerk of the circuit court in which a petition is filed under subsection (3) shall immediately set the date, time, and place for a hearing on the petition for foreclosure. The date shall be set by the clerk and shall not be more than 10 days after the date requested by the authority in the petition. In no event may the clerk schedule the hearing later than 90 days after the filing of a petition by the authority under subsection (3).

(5) After completing the records search under subsection (2), an authority shall determine the address or addresses reasonably calculated to inform those owners of a property interest in property subject to expedited foreclosure under this section of the pendency of the quiet title and foreclosure hearing under subsection (11). If, after conducting the title search, the authority is unable to determine an address reasonably calculated to inform persons with a property interest in property subject to expedited tax foreclosure, or if the authority discovers a deficiency in notice under subsection (10), the following shall be considered reasonable steps by the authority to ascertain the addresses of persons with a property interest in the property subject to expedited foreclosure or to ascertain an address necessary to correct a deficiency in notice under subsection (10):

(a) For an individual, a search of records of the county probate court for the county in which the property is located.

(b) For an individual, a search of the qualified voter file established under section 509o of the Michigan election law, 1954 PA 116, MCL 168.509o, which is authorized by this subdivision.

(c) For a partnership, a search of partnership records filed with the county clerk.

(d) For a business entity other than a partnership, a search of business entity records filed with the corporation division of the department.

(6) Not less than 30 days before the quiet title and foreclosure hearing under subsection (11), the authority shall send notice by certified mail, return receipt requested, of the hearing to the persons identified under subsection (5) with a property interest in property subject to expedited foreclosure. The authority shall also send a notice via regular mail addressed to the "Occupant" for each property subject to expedited foreclosure if an address for the property is ascertainable.

(7) Not less than 30 days before the quiet title and foreclosure hearing under subsection (11), the authority



or its authorized representative or authorized agent shall visit each parcel of property subject to expedited foreclosure and post conspicuously on the property notice of the hearing. In addition to the requirements of subsection (8), the notice shall also include the following statement: "THIS PROPERTY HAS BEEN TRANSFERRED TO THE \_\_\_\_\_ LAND BANK FAST TRACK AUTHORITY AND IS SUBJECT TO AN EXPEDITED QUIET TITLE AND FORECLOSURE ACTION. PERSONS WITH INFORMATION REGARDING THE PRIOR OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT THE LAND BANK FAST TRACK AUTHORITY AT \_\_\_\_\_."

(8) The notice required under subsections (6) and (7) shall include:

(a) The date on which the authority recorded under subsection (1) notice of the pending expedited quiet title and foreclosure action.

(b) A statement that a person with a property interest in the property may lose his or her interest, if any, as a result of the quiet title and foreclosure hearing under subsection (11).

(c) A legal description, parcel number of the property, and the street address of the property, if available.

(d) The person to whom the notice is addressed.

(e) The date and time of the hearing on the petition for foreclosure under subsection (11) and a statement that the judgment of the court may result in title to the property vesting in the authority.

(f) An explanation of any rights of redemption and notice that the judgment of the court may extinguish any ownership interest in or right to redeem the property.

(g) The name, address, and telephone number of the authority.

(h) A statement that persons with information regarding the owner or prior owner of any of the properties are requested to contact the authority.

(9) If the authority is unable to ascertain the address reasonably calculated to inform the owners of a property interest entitled to notice under this section, or is unable to provide notice under subsection (6) or (7), the authority shall provide notice by publication. Prior to the hearing, a notice shall be published for 3 successive weeks, once each week, in a newspaper published and circulated in the county in which the property is located. If no paper is published in that county, publication shall be made in a newspaper published and circulated in an adjoining county. This publication shall substitute for notice under subsection (6) or (7). The published notice shall include all of the following:

(a) A legal description, parcel number of the property, and the street address of the property, if available.

(b) The name of any person not notified under subsection (6) or (7) that the authority reasonably believes may be entitled to notice under this section of the quiet title and foreclosure hearing under subsection (11).

(c) A statement that a person with a property interest in the property may lose his or her interest, if any, as a result of the foreclosure proceeding under subsection (11).

(d) The date and time of the hearing on the petition for foreclosure under subsection (11).

(e) A statement that the judgment of the court may result in title to the property vesting in the authority.

(f) An explanation of any rights of redemption and notice that judgment of the court may extinguish any ownership interest in or right to redeem the property.

(g) The name, address, and telephone number of the authority.

(h) A statement that persons with information regarding the owner or prior owner of any of the properties are requested to contact the authority.

(10) If prior to the quiet title and foreclosure hearing under subsection (11) the authority discovers any deficiency in the provision of notice under this section, the authority shall take reasonable steps in good faith to correct the deficiency before the hearing. The provisions of this section relating to notice of the quiet title and foreclosure hearing are exclusive and exhaustive. Other requirements relating to notice and proof of service under other law, rule, or other legal requirement are not applicable to notice or proof of service under this section.

(11) If a petition for expedited quiet title and foreclosure is filed under subsection (3), before the hearing, the authority shall file with the clerk of the circuit court proof of notice by certified mail under subsection (6), proof of notice by posting on the property under subsection (7), and proof of notice by publication, if applicable. A person claiming an interest in a parcel of property set forth in the petition for foreclosure who desires to contest that petition shall file written objections with the clerk of the circuit court and serve those objections on the authority before the date of the hearing. The circuit court may appoint and utilize as the court considers necessary a special master for assistance with the resolution of any objections to the foreclosure or questions regarding the title to property subject to foreclosure. If the court withholds property from foreclosure, an authority's ability to include the property in a subsequent petition for expedited quiet title and foreclosure is not prejudiced. No injunction shall issue to stay an expedited quiet title and foreclosure action under this section. The circuit court shall enter judgment on a petition to quiet title and foreclosure filed under subsection (3) not more than 10 days after the conclusion of the hearing or contested case, and the

judgment shall be effective 10 days after the conclusion of the hearing or contested case. The circuit court's judgment shall specify all of the following:

- (a) The legal description and, if known, the street address of the property foreclosed.
- (b) That fee simple title to property foreclosed by the judgment is vested absolutely in the authority, except as otherwise provided in subdivisions (c) and (e), without any further rights of redemption.
- (c) That all liens against the property, including any lien for unpaid taxes or special assessments, except future installments of special assessments and liens recorded by this state or the authority under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.
- (d) That, except as otherwise provided in subdivisions (c) and (e), the authority has good and marketable fee simple title to the property.
- (e) That all existing recorded and unrecorded interests in that property are extinguished, except a visible or recorded easement or right-of-way, private deed restrictions, plat restrictions, or restrictions or other governmental interests imposed under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
- (f) A finding that all persons entitled to notice and an opportunity to be heard have been provided that notice and opportunity. A person shall be deemed to have been provided notice and an opportunity to be heard if the authority followed the procedures for provision of notice by mail, for visits to property subject to expedited quiet title and foreclosure, and for publication under this section, or if 1 or more of the following apply:

- (i) The person had constructive notice of the hearing by acquiring an interest in the property after the date of the recording under subsection (1) of the notice of pending expedited quiet title and foreclosure action.
- (ii) The person appeared at the hearing under this subsection or submitted written objections to the clerk of the circuit court under this subsection prior to the hearing.
- (iii) Prior to the hearing under this subsection, the person had actual notice of the hearing.

(12) Except as otherwise provided in subsection (11)(c) and (e), fee simple title to property set forth in a petition for foreclosure filed under subsection (3) shall vest absolutely in the authority upon the effective date of the judgment by the circuit court and the authority shall have absolute title to the property. The authority's title is not subject to any recorded or unrecorded lien, except as provided in subsection (11) and shall not be stayed or held invalid except as provided in subsection (13). A judgment entered under this section is a final order with respect to the property affected by the judgment and shall not be modified, stayed, or held invalid after the effective date of the judgment, except as provided in subsection (14).

(13) An authority or a person claiming to have a property interest under subsection (2) in property foreclosed under this section may within 21 days of the effective date of the judgment under subsection (12) appeal the circuit court's order or the circuit court's judgment foreclosing property to the court of appeals. An appeal under this subsection is limited to the record of the proceedings in the circuit court under this section. The circuit court's judgment foreclosing property shall be stayed until the court of appeals has reversed, modified, or affirmed that judgment. If an appeal under this subsection stays the circuit court's judgment foreclosing property, the circuit court's judgment is stayed only as to the property that is the subject of that appeal and the circuit court's judgment foreclosing other property that is not the subject of that appeal is not stayed. To appeal the circuit court's judgment foreclosing property, a person appealing the judgment shall pay to the authority any taxes, interest, penalties, and fees due on the property and provide notice of the appeal to the authority within 21 days after the circuit court's judgment is effective. If the circuit court's judgment foreclosing the property is affirmed on appeal, the amount determined to be due shall be refunded to the person who appealed the judgment. If the circuit court's judgment foreclosing the property is reversed or modified on appeal, the authority shall refund the amount determined to be due to the person who appealed the judgment, if any, and forward the balance to the appropriate taxing jurisdictions in accordance with the order of the court of appeals.

(14) The authority shall record a notice of judgment for each parcel of foreclosed property in the office of the register of deeds for the county in which the foreclosed property is located in a form prescribed by the department of treasury. If an authority records a notice of judgment in error, the authority may subsequently record a certificate of correction. A notice or certificate under this subsection need not be notarized and may be authenticated by a digital signature or other electronic means. After the entry of a judgment foreclosing the property under this section, if the property has not been transferred by the authority, the authority may cancel the foreclosure by recording with the register of deeds of the county in which the property is located a certificate of error in a form prescribed by the department of treasury, if the authority discovers any of the following:

- (a) The description of the property used in the expedited quiet title and foreclosure proceeding was so indefinite or erroneous that the foreclosure of the property was void.

(b) An owner of an interest in the property entitled to notice of the expedited quiet title and proceedings against the property under this section was not provided notice sufficient to satisfy the minimum due process requirements of the constitution of this state and the constitution of the United States.

(c) A judgment of foreclosure was entered under this section in violation of an order issued by a United States bankruptcy court.

(15) If a judgment of foreclosure is entered under subsection (12), and all existing recorded and unrecorded interests in a parcel of property are extinguished as provided in subsection (12), the owner of any extinguished recorded or unrecorded interest in that property who claims that he or she did not receive notice of the expedited quiet title and foreclosure action shall not bring an action for possession of the property against any subsequent owner, but may only bring an action to recover monetary damages as provided in this subsection. The court of claims has original and exclusive jurisdiction in any action to recover monetary damages under this subsection. An action to recover monetary damages under this subsection shall not be brought more than 2 years after a judgment for foreclosure is entered under subsection (12). Any monetary damages recoverable under this subsection shall be determined as of the date a judgment for foreclosure is entered under subsection (12) and shall not exceed the fair market value of the interest in the property held by the person bringing the action under this section on that date, less any taxes, interest, penalties, and fees owed on the property as of that date. The right to sue for monetary damages under this subsection shall not be transferable except by testate or intestate succession.

(16) The owner of a property interest with notice of the quiet title and foreclosure hearing under subsection (11) may not assert any of the following:

(a) That notice to the owner was insufficient or inadequate in any way because some other owner of a property interest in the property was not notified.

(b) That any right to redeem tax reverted property was extended in any way because some other person was not notified.

(17) A person holding or formerly holding an interest in tax reverted property subject to expedited foreclosure under this section is barred from questioning the validity of the expedited foreclosure under this section if 1 or more of the following apply:

(a) Prior to the transfer of the property to the authority, the property was deeded to this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, and the person or the person's predecessor in title was notified of a hearing regarding the deeding of the property as required by section 131e of the general property tax act, 1893 PA 206, MCL 211.131e.

(b) Prior to the transfer of the property to the authority, title to the property vested in a foreclosing governmental unit following a circuit court hearing under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k, and the person or the person's predecessor in title was notified of the hearing under section 78i of the general property tax act, 1893 PA 206, MCL 211.78i.

(18) The failure of an authority to comply with any provision of this section shall not invalidate any proceeding under this section if a person with a property interest in property subject to foreclosure was accorded the minimum due process required under the state constitution of 1963 and the constitution of the United States.

(19) It is the intent of the legislature that the provisions of this section relating to the expedited quiet title and foreclosure of property by an authority satisfy the minimum requirements of due process required under the constitution of this state and the constitution of the United States but that the provisions do not create new rights beyond those required under the state constitution of 1963 or the constitution of the United States. The failure of an authority, this state, a political subdivision of this state, or a local unit of government to follow a requirement of this section relating to the expedited quiet title and foreclosure of property held by an authority shall not be construed to create a claim or cause of action against an authority, this state, a political subdivision of this state, or a local unit of government unless the minimum requirements of due process accorded under the state constitution of 1963 or the constitution of the United States are violated.

(20) As used in this section, "authorized representative" includes 1 or more of the following:

(a) A title insurance company or agent licensed to conduct business in this state.

(b) An attorney licensed to practice law in this state.

(c) A person accredited in land title search procedures by a nationally recognized organization in the field of land title searching.

(d) A person with demonstrated experience in the field of searching land title records, as determined by the authority.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

**Compiler's note:** For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

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**124.760 Property as site of environmental contamination; information to be provided to department of environmental quality; property subject to certain conditions; liability.**

Sec. 10. (1) If an authority has reason to believe that property held by the authority may be the site of environmental contamination, the authority shall provide the department of environmental quality with any information in the possession of the authority that suggests that the property may be the site of environmental contamination.

(2) If property held by an authority is a facility as defined under section 20101(1)(o) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, prior to the sale or transfer of the property under this section, the property is subject to all of the following:

(a) Upon reasonable written notice from the department of environmental quality, the authority shall provide access to the department of environmental quality, its employees, its contractors, and any other person expressly authorized by the department of environmental quality to conduct response activities at the property. Reasonable written notice under this subdivision may include, but is not limited to, notice by electronic mail or facsimile, if the authority consents to notice by electronic mail or facsimile prior to provision of notice by the department of environmental quality.

(b) If requested by the department of environmental quality to protect public health, safety, and welfare or the environment, the authority shall grant an easement for access to conduct response activities on the property as authorized under chapter 7 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20302.

(c) If requested by the department of environmental quality to protect public health, safety, and welfare or the environment, the authority shall place and record deed restrictions on the property as authorized under chapter 7 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20302.

(d) The department of environmental quality may place an environmental lien on the property as authorized under section 20138 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20138.

(3) For purposes of part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, an authority shall be considered a local unit of government. Except as provided under parts 111, 115, and 315 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153, 324.11501 to 324.11550, and 324.31501 to 324.31529, the acquisition or control of property through tax delinquent forfeiture, foreclosure, or sale, abandonment, court order, circumstances in which the authority has acquired title or control of the property under this act, or by a transfer of the property to the authority by this state, an agency or department of this state, or any local unit of government of this state shall not subject the authority to liability under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, unless the authority is responsible for an activity causing a release on the property or other activity giving rise to liability under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106. This subsection shall not be considered to restrict or diminish any protection from liability that is otherwise available to the authority under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

**Compiler's note:** For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

**124.761 Waste of or unlawful removal of property; restraining order.**

Sec. 11. (1) An authority may institute a civil action to prevent, restrain, or enjoin the waste of or unlawful removal of any property from tax reverted property or other real property held by the authority.

(2) A circuit court may, on application, order the purchaser of any real property sold by an authority under this act in possession of the property.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

**124.762 Authority as party to civil action.**

Sec. 12. An authority shall be made a party to any action or proceeding instituted for the purpose of setting aside title to property held by the authority, the sale of property by the authority, or an expedited foreclosure under section 9. A hearing in any such proceeding shall not be held until the authority is served with process and proper proof of service is filed.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

**124.763 Property of authority as public property.**

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Sec. 13. Property of an authority is public property devoted to an essential public and governmental function and purpose. Income of the authority is considered to be for a public and governmental purpose. The property of the authority and its income and operation are exempt from all taxes and special assessments of this state or a local unit of government of this state. Bonds or notes issued by the authority, and the interest on and income from those bonds and notes, are exempt from all taxation of this state or a local unit of government.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.764 Construction, intent, and scope of act.**

Sec. 14. (1) This act shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authorization for the performance of each and every act and thing authorized by this act, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers. In the exercise of its powers and duties under this act and its powers relating to property held by the authority, the authority shall have complete control as fully and completely as if it represented a private property owner and shall not be subject to restrictions imposed on the authority by the charter, ordinances, or resolutions of a local unit of government.

(2) Unless permitted by this act or approved by an authority, any restrictions, standards, conditions, or prerequisites of a city, village, township, or county otherwise applicable to an authority and enacted after the effective date of this act shall not apply to an authority. This subsection is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to an authority and not to exempt an authority from laws generally applicable to other persons or entities.

(3) The provisions of this act apply notwithstanding any resolution, ordinance, or charter provision to the contrary. This section is not intended to exempt an authority from local zoning or land use controls, including, but not limited to, those controls authorized under the city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600, the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, or 1945 PA 344, MCL 125.71 to 125.84.

(4) The transfer to an authority of tax reverted property, the title to which involuntarily vested in this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, in a foreclosing governmental unit under section 78m(7) of the general property tax act, 1893 PA 206, MCL 211.78m, or in a qualified city pursuant to procedures established under the charter or ordinances of the qualified city, shall be construed as an involuntary transfer of property to the authority. After a transfer described in this subsection, the authority shall be deemed to have assumed any governmental immunity or other legal defenses of this state, the foreclosing governmental unit, or the local unit of government related to the property and the manner in which title to the property was held by this state or the local unit of government.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.765 Land bank fast track authority; creation; powers and duties; staffing; cooperation with state departments and agencies.**

Sec. 15. (1) The land bank fast track authority is created as a public body corporate and politic within the department.

(2) The state authority shall exercise its powers, duties, functions, and responsibilities independently of the director of the department. The budgeting, procurement, and related administrative or management functions of the state authority shall be performed under the direction and supervision of the director of the department. The state authority may contract with the department for the purpose of maintaining the rights and interests of the state authority.

(3) Subject to available appropriations, if requested by the state authority, the department shall provide staff and other support to the state authority sufficient to carry out its duties, powers, and responsibilities.

(4) All departments and agencies of state government shall provide full cooperation to the state authority in the performance of its duties, powers, and responsibilities.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.766 Board of directors; membership; appointment; terms; oath; removal; vacancy; election of chairperson and vice-chairperson; designation of representative; discharge of duties.**

Sec. 16. (1) The purposes, powers, and duties of the state authority are vested in and shall be exercised by a board of directors. The authority board shall consist of 7 members. The governor shall appoint 4 residents of this state as members of the authority board. The members of the authority board shall serve terms of 4 years. In appointing the initial members of the authority board, the governor shall designate 2 to serve for 4 years, 1



to serve for 3 years, and 1 to serve for 2 years. All of the following shall also serve as members of the authority board:

- (a) The director of the department or his or her designee.
- (b) The chief executive officer of the Michigan economic development corporation or his or her designee.
- (c) The executive director of the Michigan state housing development authority or his or her designee.

(2) Upon appointment to the authority board under subsection (1) and upon the taking and filing of the constitutional oath of office prescribed in section 1 of article XI of the state constitution of 1963, a member of the authority board shall enter the office and exercise the duties of the office. A member of the authority board may be removed by the governor as provided in section 10 of article V of the state constitution of 1963.

(3) Regardless of the cause of a vacancy on the authority board, the governor shall fill a vacancy in the office by appointment in the same manner as an appointment under subsection (1). A vacancy shall be filled for the balance of the unexpired term of the office. A member of the authority board shall hold office until a successor has been appointed and qualified.

(4) The authority board shall elect a chairperson and a vice-chairperson from among its members. Members of the authority board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(5) A state officer or director who is a member of the authority board may designate a representative from his or her department or agency as a voting member of the authority board for 1 or more meetings.

(6) A member of the authority board, officer, employee, or agent of the state authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the duties of his or her position, a member of the authority board or an officer, employee, or agent, when acting in good faith, may rely upon the opinion of counsel for the state authority, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the authority represented to the member of the authority board or officer, employee, or agent of the state authority to be correct by the president or the officer of the state authority having charge of its books or account, or stated in a written report by a certified public accountant or firm of certified public accountants fairly to reflect the financial condition of the state authority.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.767 Executive director; appointment; eligibility; oath; duties.**

Sec. 17. The governor shall appoint a person to serve as the executive director of the state authority. A member of the authority board is not eligible to hold the position of executive director. Before entering upon the duties of his or her office, the executive director shall take and file the constitutional oath of office provided in section 1 of article XI of the state constitution of 1963. Subject to the approval of the authority board, the executive director shall supervise, and be responsible for, the performance of the functions of the state authority under this act. The executive director shall attend the meetings of the authority board and shall provide the authority board and the governing body of the state authority a regular report describing the activities and financial condition of the state authority. The executive director shall furnish the authority board with information or reports governing the operation of the state authority as the authority board requires.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.768 Land bank fast track fund; creation; receipt of money or other assets; money remaining in fund; expenditures; disposition of proceeds.**

Sec. 18. (1) The land bank fast track fund is created under the jurisdiction and control of the state authority and may be administered to secure any notes and bonds of the state authority.

(2) The state authority may receive money or other assets from any source for deposit into the fund. The state authority shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to any other fund.

(4) The state authority shall expend money from the fund only for 1 or more of the following:

- (a) Costs to clear or quiet title to property held by the state authority.
- (b) To repay a loan made to the state authority under section 2f of 1855 PA 105, MCL 21.142f.
- (c) Any other purposes provided in this act.

(5) The state authority shall deposit into the fund all money it receives from the sale or transfer of property under this act, subject to section 8. The state authority shall credit to the fund the proceeds of the sale of notes or bonds to the extent provided for in the authorizing resolution of the state authority, and any other money made available to the state authority for the purposes of the fund.

#### **124.769 Borrowing money and issuing bonds or notes.**

Sec. 19. (1) The state authority may borrow money and issue bonds or notes for the following purposes:

(a) To provide sufficient funds for achieving the state authority's purposes and objectives or incident to and necessary or convenient to carry out the state authority's purposes and objectives, including necessary administrative costs.

(b) To refund bonds or notes of the state authority issued under this act, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of the issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund the bonds or notes and partly for any other purpose provided for by this section.

(c) To pay the costs of issuance of bonds or notes under this act; to pay interest on bonds or notes becoming payable before the receipt of the first revenues available for payment of that interest as determined by the authority board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in the amount determined by the authority board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the authority board, shall bear the date or dates, and shall mature at the time or times not exceeding 50 years from the date of issuance, as the resolution may provide. The bonds and notes shall bear interest at the rate or rates as may be set, reset, or calculated from time to time, or may bear no interest, as provided in the resolution. The bonds and notes shall be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be transferable, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of prior redemption at the option of the state authority or the holders of the bonds and notes as the resolution or resolutions may provide. The bonds and notes of the state authority may be sold at public or private sale at the price or prices determined by the state authority. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be 1 or more of the following:

(a) Made the subject of a put or agreement to repurchase by the state authority or others.

(b) Secured by a letter of credit or by any other collateral that the resolution may authorize.

(c) Reissued by the state authority once reacquired by the state authority pursuant to any put or repurchase agreement.

(4) The state authority may authorize by resolution any member of the board to do 1 or more of the following:

(a) Sell and deliver, and receive payment for notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes.

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes.

(d) Buy notes or bonds issued at not more than the face value of the notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as may otherwise be expressly provided by the state authority, every issue of its notes or bonds shall be general obligations of the state authority payable out of revenues, properties, or money of the state authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security for the notes or bonds.

(6) The notes or bonds of the state authority are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions of the notes or bonds for registration.

(7) Bonds or notes issued by the state authority are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of bonds and notes under this act is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177. The bonds or notes issued by the state authority are not required to be registered. A filing of a bond or note of the state authority is not required under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(8) A bond or note issued by the state authority shall contain on its face a statement to the effect that the state authority is obligated to pay the principal of and the interest on the bond or note only from revenue or funds of the state authority pledged for the payment of principal and interest and that this state is not obligated to pay that principal and interest and that neither the faith and credit nor the taxing power of this state is

pledged to the payment of the principal of or the interest on the bond or note.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.770 Transfer of property from state administrative board.**

Sec. 20. (1) The state administrative board may transfer to the state authority tax reverted property owned or under control of this state, on terms and conditions the state administrative board considers appropriate and consistent with the provisions of this act. A transfer of property by the state administrative board under this section is subject only to the terms and conditions imposed by the state administrative board and is not subject to section 2101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2101.

(2) The state administrative board shall transfer and convey to the state authority, subject to the conditions and restrictions of this section, the surplus state real property described in this section, including all options, easements, rights-of-way, and all improvements to the property except as noted in this section. All of the following described state surplus real property shall be transferred to the state authority under this section:

(a) Land in the City of Southgate, Wayne County, Michigan, described as: That part of the southwest 1/4 and of the southeast 1/4 of section 35, town 3 south, range 10 east, City of Southgate, County of Wayne, State of Michigan, described as: Beginning at the south 1/4 corner of section 35, town 3 south, range 10 east; thence north 89 degrees 29 minutes 52 seconds west 377.03 feet along the south line of said section 35; thence north 00 degrees 07 minutes 38 seconds east 1950.98 feet to centerline of Frank and Poet Drain; thence south 63 degrees 23 minutes 08 seconds east 15.60 feet along centerline of Frank and Poet Drain; thence south 37 degrees 03 minutes 54 seconds east 61.06 feet along centerline of Frank and Poet Drain; thence south 54 degrees 43 minutes 11 seconds east 78.36 feet along centerline of Frank and Poet Drain; thence south 50 degrees 32 minutes 05 seconds east 47.65 feet along centerline of Frank and Poet Drain; thence south 35 degrees 20 minutes 50 seconds east 67.52 feet along centerline of Frank and Poet Drain; thence south 63 degrees 46 minutes 49 seconds east 32.66 feet along centerline of Frank and Poet Drain; thence south 45 degrees 25 minutes 00 seconds east 71.96 feet along centerline of Frank and Poet Drain; thence south 61 degrees 13 minutes 05 seconds east 61.73 feet along centerline of Frank and Poet Drain; thence south 50 degrees 50 minutes 08 seconds east 41.80 feet along centerline of Frank and Poet Drain; thence south 44 degrees 20 minutes 22 seconds east 33.12 feet along centerline of Frank and Poet Drain; thence south 29 degrees 37 minutes 15 seconds east 34.98 feet along centerline of Frank and Poet Drain; thence south 05 degrees 34 minutes 10 seconds east 49.66 feet along centerline of Frank and Poet Drain; thence south 28 degrees 00 minutes 22 seconds west 36.63 feet along centerline of Frank and Poet Drain; thence south 33 degrees 24 minutes 36 seconds east 119.14 feet along centerline of Frank and Poet Drain; thence north 67 degrees 59 minutes 35 seconds east 50.70 feet along centerline of Frank and Poet Drain; thence north 88 degrees 16 minutes 46 seconds east 484.63 feet along centerline of Frank and Poet Drain; thence south 80 degrees 13 minutes 42 seconds east 53.20 feet along centerline of Frank and Poet Drain to east line of west 1/2 of west 1/2 of southeast 1/4 of section 35; thence north 00 degrees 07 minutes 12 seconds east 106.82 feet along above noted east line; thence south 57 degrees 15 minutes 29 seconds east 449.51 feet to south 1/16 line of section 35; thence north 89 degrees 37 minutes 15 seconds west 50.00 feet along south 1/16 line of section 35; thence south 00 degrees 04 minutes 09 seconds west 1311.05 feet to south line of section 35; thence north 89 degrees 22 minutes 00 seconds west 989.22 feet along south line of section 35 to point of beginning.

(3) Proceeds from the sale of property transferred to the state authority under this section shall be deposited in the fund and expended for purposes of this act.

(4) The governor may direct a department or agency of this state to prepare or record any documents necessary to evidence the transfer of property to the state authority under this section.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.771 Dissolution of authority.**

Sec. 21. If the state authority has completed the purposes for which it was organized, the authority board, by vote of at least 5 directors and with the written consent of the governor, may provide for the dissolution of the state authority and may provide for the transfer of any property held by the state authority to another authority or state agency. Upon the dissolution of the state authority, any remaining balance in the fund shall be transferred to the general fund of this state.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.772 Biennial report.**

Sec. 22. The state authority shall report biennially to the legislature on the activities of the state authority.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

### **124.773 Intergovernmental agreements.**

Sec. 23. (1) An authority may enter into an intergovernmental agreement with the Michigan economic development corporation for the joint exercise of powers and duties under this act, of the powers and duties of the authority and the Michigan economic development corporation, and for the provision of economic development services related to the activities of the authority.

(2) An authority may enter into an intergovernmental agreement with the Michigan state housing development authority for the joint exercise of powers and duties under this act, of the powers and duties of the authority and the Michigan state housing development authority, and for the provision of redevelopment services related to the activities of the authority.

(3) A county, city, qualified city, township, or village may enter into an intergovernmental agreement with the state authority providing for the transfer to the authority of tax reverted property held by the county, city, township, or village, for title clearance, for the disposition of the proceeds from the sale of the property, and for other activities authorized under this act, including the return or transfer of property under the control of the authority to the county, city, township, or village. An intergovernmental agreement under this subsection may not provide for a separate legal or administrative entity to administer or execute the agreement under section 7 of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.507.

(4) A county foreclosing governmental unit may, with the approval of the board of commissioners for that county and, if that county has an elected county executive, with the concurrence of the elected county executive, enter into an intergovernmental agreement with the state authority providing for the exercise of the powers, duties, functions, and responsibilities of an authority under this act and for the creation of a county authority to exercise those functions. If a county authority is created under this subsection, the treasurer of the county shall be a member of the authority board.

(5) A qualified city may enter into an intergovernmental agreement with the state authority providing for the exercise of the powers, duties, functions, and responsibilities of an authority under this act and for the creation of a local authority to exercise those functions.

(6) An intergovernmental agreement under subsection (4) or (5) shall provide for all of the following:

(a) The incorporation of a county or local authority as a public body corporate.

(b) The name of the authority.

(c) The size of the initial governing body of the county or local authority, which shall be composed of an odd number of members.

(d) The qualifications, method of selection, and terms of office of the initial board members.

(e) A method for the adoption of articles of incorporation by the governing body of the county or local authority.

(f) A method for the distribution of proceeds from the activities of the county or local authority.

(g) A method for the dissolution of the local or county authority and for the withdrawal from the authority of any governmental agencies involved.

(h) Any other matters considered advisable by the participating governmental agencies, consistent with this act.

(7) If under the charter of a qualified city the qualified city collects delinquent city real property taxes and does not return the delinquent taxes to the treasurer of the county in which the qualified city is located under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, any of the following property held by the qualified city may be transferred to a local authority:

(a) Tax delinquent real property for which a lien has been deemed sold to a city department director under the charter or ordinances of the qualified city, except for property that was deeded to a department director less than 2 years before the proposed transfer to the local authority.

(b) Tax delinquent real property held by the city that has been foreclosed by the qualified city and for which title has vested in the city pursuant to procedures established under the charter or ordinances of the qualified city.

(c) Any tax reverted property owned or under the control of the qualified city.

(8) A qualified city may authorize the transfer with or without consideration of any real property or interest in real property to a local authority including, but not limited to, tax reverted property or interests in tax reverted property held or acquired after the creation of the local authority by the qualified city, with the consent of the local authority.

(9) A qualified city and any agency or department of a qualified city, or any other official public body, may do 1 or more of the following:

(a) Anything necessary or convenient to aid a local authority in fulfilling its purposes under this act.

(b) Lend, grant, transfer, appropriate, or contribute funds to a local authority in furtherance of its purposes.

(c) Lend, grant, transfer, or convey funds to a local authority that are received from the federal government or this state or from any nongovernmental entity in aid of the purposes of this act.

(10) A local authority may reimburse advances made by a qualified city under subsection (9) or by any other person for costs eligible to be incurred by the local authority with any source of revenue available for use of the local authority under this act and enter into agreements related to these reimbursements. A reimbursement agreement under this subsection is not subject to section 305 of the revised municipal finance act, 2001 PA 34, MCL 141.2305.

(11) A local authority may enter into agreements with the county treasurer of the county in which the qualified city is located for the collection of property taxes or the enforcement and consolidation of tax liens within that qualified city for any property or interest in property transferred to the local authority.

(12) Unless specifically reserved or conditioned upon the approval of the governing body of a qualified city, all powers granted under this act to a local authority may be exercised by the local authority without the approval of the governing body of the qualified city, notwithstanding any charter, ordinance, or resolution to the contrary.

(13) Prior to its effectiveness, an intergovernmental agreement under this section shall be filed with the county clerk of each county where a party to the agreement is located and with the secretary of state.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.

#### **124.774 Authority created under MCL 124.773; borrowing money and issuing bonds or notes.**

Sec. 24. (1) By resolution of its board, an authority created under section 23 may borrow money and issue bonds and notes, subject to limitations set forth in this section, for the purpose of achieving the purposes of and objectives incident to and necessary or convenient to carry out the purposes and objectives of the authority, including, but not limited to, necessary administrative and operational costs. The bonds or notes shall mature in not more than 30 years and shall bear interest and be sold and be payable in the manner and upon the terms and conditions determined, or within the parameters specified, by the authority in the resolution authorizing issuance of the bonds or notes. The bonds or notes may include capitalized interest, an amount sufficient to fund costs of the issuance of the bonds or notes, and a sum to provide a reasonable reserve for payment of principal and interest on the bonds or notes. Bonds or notes issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The resolution authorizing the obligations shall create a lien on revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds or notes may be issued of equal standing and parity of lien as to revenues pledged under the resolution.

(2) The qualified city or county which authorized the formation of an authority under section 23 may by a majority vote of its governing body make a limited tax pledge to support the authority's bonds or notes, or if authorized by the voters of the qualified city or county, may pledge its unlimited tax full faith and credit for the payment of principal of and interest on the authority's bonds or notes.

(3) The bonds or notes issued under this section shall be secured by 1 or more sources of revenue available to the authority, as provided by resolution of the authority, including revenues available to the authority under the tax reverted property clean title act.

(4) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies, and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for 1 or more of the purposes for which the deposit of bonds or notes is authorized. The authorization granted by this section is supplemental and in addition to all other authority granted by law.

(5) The net present value of the principal and interest to be paid on an obligation issued by or incurred by the authority to refund an obligation incurred under this section, including the cost of issuance, shall be less than the net present value of the principal and interest to be paid on the obligation being refunded as calculated using a method approved by the department of treasury.

(6) An obligation issued by an authority under this section shall not appreciate in principal amount or be sold at a discount of more than 10% unless the obligation of the authority is issued to this state, an agency of this state, the county, or the qualifying city.

(7) Bonds and notes issued by an authority under this section and the interest on and income from the bonds and notes are exempt from taxation by this state or a political subdivision of this state.

(8) This section does not apply to a loan under section 2f of 1855 PA 105, MCL 21.142f.

**History:** 2003, Act 258, Imd. Eff. Jan. 5, 2004.